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Friday
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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 99–078–1]

Imported Fire Ant; Quarantined Areas and Treatment Dosage

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the imported fire ant regulations by designating as quarantined areas portions of two counties in California. As a result of this action, the interstate movement of regulated articles from those areas will be restricted. This action is necessary to prevent the artificial spread of the imported fire ant to noninfested areas of the United States. We are also amending the treatment provisions in the Appendix to the imported fire ant regulations by lowering the dosage rate of bifenthrin wettable powder for the treatment of containerized nursery plants.

DATES: This interim rule is effective November 5, 1999. We invite you to comment on this docket. We will consider all comments that we receive by January 4, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 99–078–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 98–078–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald P. Milberg, Operations Officer, Program Support, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–5255.

SUPPLEMENTARY INFORMATION:

Background

The imported fire ant regulations (contained in 7 CFR 301.81 through 301.81–10, and referred to below as the regulations) quarantine infested States or infested areas within States and impose restrictions on the interstate movement of regulated articles for the purpose of preventing the artificial spread of the imported fire ant.

The imported fire ant, *Solenopsis invicta* Buren and *Solenopsis richteri* Forel, is an aggressive, stinging insect that, in large numbers, can seriously injure and even kill livestock, pets, and humans. The imported fire ant feeds on crops and builds large, hard mounds that damage farm and field machinery. The imported fire ant is not native to the United States. The regulations prevent the imported fire ant from spreading throughout its ecological range within this country.

The regulations in § 301.81–3 provide that the Administrator of the Animal and Plant Health Inspection Service (APHIS) will list as a quarantined area each State, or each portion of a State, that is infested with the imported fire ant. The Administrator will designate less than an entire State as a quarantined area only under the following conditions: (1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles listed in § 301.81–2 that are equivalent to the interstate movement restrictions imposed by the regulations; and (2) designating less than the entire State will prevent the spread of the imported fire ant. The Administrator may include uninfested acreage within a quarantined area due to its proximity to an infestation or its inseparability from an infested locality for quarantine purposes.

We are amending § 301.81–3(e) by designating additional portions of Los Angeles and Riverside Counties in California as quarantined areas. We are taking this action because recent surveys conducted by APHIS and State and county agencies reveal that the imported fire ant has spread to these areas. See the rule portion of this document for specific descriptions of the new quarantined areas.

We are also revising the dosage rate of a treatment described in the Appendix to the regulations. Sections 301.81–4 and 301.81–5 of the regulations provide, among other things, that regulated articles requiring treatment before interstate movement must be treated in accordance with the methods and procedures prescribed in the Appendix to the imported fire ant regulations. The Appendix sets forth the treatment provisions of the ''Imported Fire Ant Program Manual.'' We are amending paragraph III.C.4. of the Appendix by changing the dosage rate of bifenthrin wettable powder from 50 ppm to 25 ppm. On December 4, 1992, we published a final rule in the **Federal Register** at 57 CFR 57322–57335 (Docket No. 86–328–2) that lowered the dosage rate of granular bifenthrin from 50 ppm to 25 ppm for the treatment of containerized nursery plants. The dosage rate for bifenthrin wettable powder was not changed at that time. However, bifenthrin wettable powder has been proven effective for the treatment of containerized nursery plants at a dosage rate of 25 ppm, and that dosage rate is consistent with current product labeling approved by the U.S. Environmental Protection Agency. The lower dosage rate will prevent unnecessary use of the pesticide.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action to quarantine newly infested areas is necessary to prevent the artificial spread of the imported fire ant into noninfested areas of the United States. Immediate

action to change the dosage rate for bifenthrin wettable powder is necessary to prevent unnecessary use of the pesticide.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this action effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action amends the imported fire ant regulations by designating portions of Los Angeles and Riverside Counties in California as quarantined areas. As a result of this action, the interstate movement of regulated articles from those areas will be restricted. This action is necessary on an emergency basis to prevent the artificial spread of the imported fire ant to noninfested areas of the United States. We are also amending the Appendix to the imported fire ant regulations by changing the dosage rate of a chemical to reduce its use and the costs associated with its use.

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. If we determine that this rule would have a significant economic impact on a substantial number of small entities, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our final regulatory flexibility analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this program. The assessment provides a basis for the conclusion that the methods employed to regulate the imported fire ant will not significantly affect the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.81–3, paragraph (e), the list of quarantined areas is amended by adding, under California, a second paragraph for Los Angeles County and a fourth paragraph for Riverside County to read as follows:

§ 301.81–3 Quarantined areas.

* * * * *

(e) * * *

California

Los Angeles County. * * *

That portion of Los Angeles County in the Azusa area bounded by a line beginning at the intersection of Irwindale Avenue and Foothill Boulevard; then east along Foothill Boulevard to Azusa Avenue; then south along Azusa Avenue to East Fifth Street; then east along East Fifth Street to North Cerritos Avenue; then south along North Cerritos Avenue to Arrow Highway; then west along Arrow Highway to Azusa Avenue, then south along Azusa Avenue to Covina Boulevard; then west along an imaginary line to the intersection of Martinez Street and Irwindale Avenue; then north along Irwindale Avenue to the point of beginning.

* * * * *

Riverside County. * * *

That portion of Riverside County in the Palm Springs area bounded by a line beginning at the intersection of Tramway Road, State Highway 111, and San Rafael Drive; then east along San Rafael Drive to Indian Canyon Drive; then south along Indian Canyon Drive to Francis Drive; then east along Francis Drive to North Farrell Drive; then south along North Farrell Drive to Verona Road; then east along Verona Road to Whitewater Club Drive; then east along an imaginary line to the intersection of Verona Road and Ventura Drive; then east along Verona Road to Avenida Maravilla; then east and south along Avenida Maravilla to 30th Avenue; then west along 30th Avenue to its end; then due west along an imaginary line to the Whitewater River; then southeast along the Whitewater River to Dinah Shore Drive; then west along an imaginary line to the east end of 34th Avenue; then west along 34th Avenue to Golf Club Drive; then south along Golf Club Drive to East Palm Canyon Drive; then south along an imaginary line to the intersection of Desterto Vista and Palm Hills Drive; then south along Palm Hills Drive to its end; then southwest along an imaginary line to the intersection of Murray Canyon and Palm Canyon Drive; then northwest along Palm Canyon Drive to the Palm Springs city limits; then west and north along Palm Springs city limits to Tahquitz Creek; then due north along an imaginary line to Tramway Road; then northeast along Tramway Road to the point of beginning.

* * * * *

3. In part 301, Subpart—Imported Fire Ant (§§ 301.81–301.81–10), the Appendix to the subpart is amended at paragraph III.C.4., under the heading ''Exclusion,'' and under the heading

''Bifenthrin,'' by removing the phrase ''for wettable powder it is 50 ppm'' in the last sentence of the first paragraph and adding in its place the phrase ''for wettable powder it is 25 ppm''.

Done in Washington, DC, this 1st day of November 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–29046 Filed 11–4–99; 8:45 am]

BILLING CODE 3410–34–U

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–1051]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of adjustment of dollar amount.

SUMMARY: The Board is publishing an adjustment to the dollar amount that triggers Regulation Z (Truth in Lending) requirements for certain mortgages bearing fees above a certain amount. The Home Ownership and Equity Protection Act of 1994 sets forth rules for home-secured loans in which the total points and fees payable by the consumer at or before loan consummation exceed the greater of $400 or 8 percent of the total loan amount. The Board has annually adjusted the $400 amount based on the annual percentage change reflected in the Consumer Price Index that is in effect on June 1. The adjustment for 2000 is $451.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Michael Hentrel, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667. For the users of Telecommunications Device for the Deaf *only*, please contact Diane Jenkins at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

Background

The Truth in Lending Act (TILA; 15 U.S.C. 1601–1666j) requires creditors to disclose credit terms and the cost of consumer credit as an annual percentage rate. The act requires additional disclosures for loans secured by a consumer's home, and permits consumers to cancel certain transactions that involve their principal dwelling. TILA is implemented by the Board's Regulation Z (12 CFR part 226).

On March 24, 1995, the Board published amendments to Regulation Z implementing the Home Ownership and Equity Protection Act of 1994 (HOEPA), contained in the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325, 108 Stat. 2160 (60 FR 15463). These amendments, which became effective on October 1, 1995, are contained in § 226.32 of the regulation and impose additional disclosure requirements and substantive limitations on certain closed-end mortgage loans bearing rates or fees above a certain percentage or amount. As enacted, the statute requires creditors to comply with the HOEPA rules if the total points and fees payable by the consumer at or before loan consummation exceed the greater of $400 or 8 percent of the total loan amount. TILA and Regulation Z provide that the $400 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index (CPI) that was reported on the preceding June 1. (15 U.S.C. 1602(aa)(3) and 12 CFR 226.32(a)(1)(ii)). The Board adjusted the $400 amount to $441 for 1999.

The Bureau of Labor Statistics publishes consumer-based indices monthly, but does not ''report'' a CPI change on June 1; adjustments are reported in the middle of each month. The Board uses the CPI–U index, which is based on all urban consumers and represents approximately 80 percent of the U.S. population, as the index for adjusting the $400 dollar figure. The adjustment to the CPI–U index reported by the Bureau of Labor Statistics on May 15, 1999, was the CPI–U index ''in effect'' on June 1, and reflects the percentage increase from April 1998 to April 1999. The adjustment to the $400 figure below reflects a 2.3 percent increase in the CPI–U index for this period and is rounded to whole dollars for ease of compliance.

Adjustment

For the reasons set forth in the preamble, for purposes of determining whether a mortgage transaction is covered by 12 CFR 226.32 (based on the total points and fees payable by the consumer at or before loan consummation), a loan is covered if the points and fees exceed the greater of $451 or 8 percent of the total loan amount, effective January 1, 2000.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, November 1, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–29003 Filed 11–4–99; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 34

[Docket No. FAA–1999–5018; Amendment No. 34–3]

RIN 2120–AG68

Emission Standards for Turbine Engine Powered Airplanes; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule published in the **Federal Register** of February 3, 1999 (64 FR 5556). That document revised emission standards for turbine engine-powered airplanes by incorporating the current standards of the International Civil Aviation Organization (ICAO) to bring the United States emissions standards into alignment with those of ICAO. This document corrects references to appendices and the effective dates of ICAO-referenced standards.

EFFECTIVE DATE: November 5, 1999.

FOR FURTHER INFORMATION CONTACT: Edward McQueen, telephone (202) 267–3560.

Correction

In the final rule FR Doc. 99–1608, published in the **Federal Register** of February 3, 1999 (64 FR 5556), make the following corrections:

1. On page 5557, in the first column, under Section 34.71, sixth line, correct ''Appendices 3 and 5 of this document specify the system and procedures for sampling and measurement of gaseous emissions'' to read ''Appendix 6 of this document specifies the compliance procedure for gaseous emissions and smoke.''

2. On page 5557, in the first column, under Section 34.82, sixth line, correct ''Appendices 3 and 5 of this document specify the system and procedures for sampling and measurement of smoke emissions'' to read ''Appendix 2 of this document specifies the system and procedures for sampling and measurement of smoke emissions.''

3. On page 557, in the first column, under Section 34.89, sixth line, correct ''Appendices 3 and 5 of this document

specify the system and procedures for sampling and measurement of smoke emissions'' to read ''Appendix 6 of this document specifies the compliance procedure for gaseous emissions and smoke.''

§ 34.64 [Corrected]

4. On page 559, in the third column, in § 34.64, eighth line, add '', effective March 20, 1997'' to the end of the first sentence of the section.

§ 34.71 [Corrected]

5. On page 5559, in the third column, in § 34.71, thirteenth line, correct ''effective March 20, 1997'' to read ''effective July 26, 1993.''

§ 34.82 [Corrected]

6. On page 5560, in the first column, in § 34.82, seventh line, add '', effective July 26, 1993'' to the end of the first sentence of the section.

§ 34.89 [Corrected]

7. On page 5560, in § 34.89, in the third column, fourth line, add '', effective July 26, 1993'' to the end of the third sentence of the section.

Issued in Washington, DC, on November 1, 1999.

Donald P. Byrne,

Assistant Chief Counsel.

[FR Doc. 99–29043 Filed 11–4–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–01–AD; Amendment 39–11403; AD 99–23–07]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model SA330F, G, J, and AS332C, L, and L1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Eurocopter France Model SA330F, G, J, and AS332C, L, and L1 helicopters. This action requires inserting statements into the Limitations section of the Rotorcraft Flight Manual (RFM) prohibiting flight under certain atmospheric conditions. This amendment is prompted by one incident in which a Multi-Purpose Air Intake (MPAI) inlet seal deflated after the P2 air system line, which feeds the seal, clogged due to the formation of ice. The actions specified in this AD are intended to prevent clogging of the MPAI seal P2 air system line due to ice formation, which could result in deflation of the MPAI seal, loss of engine power, and subsequent loss of control of the helicopter.

DATES: Effective November 22, 1999.

Comments for inclusion in the Rules Docket must be received on or before January 4, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–01–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Shep Blackman, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5296, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Model SA330F, G, J, and AS332C, L, and L1 helicopters. The DGAC has advised that there was an incident in which an MPAI seal deflated. This deflation could lead to ice formation in the MPAI during flight in moist atmospheric conditions.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model SA330F, G, J, and AS332C, L, and L1 helicopters of the same type design registered in the United States, this AD is being issued to prevent clogging of the MPAI seal P2 air system line due to ice formation, which could result in deflation of the MPAI seal, loss of engine power, and subsequent loss of control of the helicopter. This AD requires, before further flight, inserting statements into the Limitations section of the RFM which prohibit flight in certain atmospheric conditions, and prohibit flight in specific conditions unless operation of the MPAI seal has been visually checked. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, inserting the pages into the RFM is required prior to further flight, and this AD must be issued immediately.

None of the helicopters affected by this action are registered in the U.S. All helicopters included in the applicability of this rule are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject helicopters are imported and placed on the U.S. Register in the future.

Should an affected helicopter be imported and placed on the U.S. Register in the future, it would require approximately 1 work hour to insert the statements into the RFM, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $60 per helicopter.

Since this AD action does not affect any helicopter that is currently on the U.S. Register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–SW–01–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that notice and prior public comment are unnecessary in promulgating this regulation, and therefore it can be issued immediately to correct an unsafe condition since none of these model helicopters are registered in the U.S. It is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ''**ADDRESSES**.''

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 99–23–07 Eurocopter France: Amendment 39–11403. Docket No. 99–SW–01–AD.

Applicability:

- Model SA330F or G helicopters not modified by MOD 0723672;
- Model SA330J helicopters not modified by either MOD 0723672 or optional Eurocopter Service Bulletin 30.16, dated January 19, 1999; and
- AS332C, L, and L1 helicopters not modified by either MOD 0725855 or both MOD 0725974 and MOD 0725998 as noted in Eurocopter Service Bulletin 01.00.54R1, dated July 12, 1999, with Multi-Purpose Air Intakes (MPAI) installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required before further flight, unless accomplished previously.

To prevent clogging of the MPAI seal P2 air system line due to ice formation, which could result in deflation of the MPAI seal, loss of engine power, and subsequent loss of control of the helicopter, accomplish the following:

(a) Insert the following statement prohibiting flight in certain atmospheric conditions into the Limitations section of the Rotorcraft Flight Manual (RFM):

''A. Flight under the following conditions is prohibited:

1. Flight in clouds or fog at an OAT equal to or lower than 3 degrees Celsius (37.4 degrees Fahrenheit).

2. Flight in rain at an OAT within the temperature range of −3 degrees to +3 degrees Celsius (26.6 degrees to 37.4 degrees Fahrenheit).

B. Flight under the following conditions is prohibited unless the Multi-Purpose Air Intake seals have been visually checked for proper inflation immediately prior to entering the specified atmospheric conditions:

1. Flight in falling or recirculating snow at an OAT equal to or higher than –3 degrees Celsius (26.6 degrees Fahrenheit).

2. Takeoff after extended ground taxiing or holding in falling snow at an OAT equal to or above −3 degrees Celsius (26.6 degrees Fahrenheit).''

(b) This AD revises the Limitations section in the RFM by prohibiting flight in certain atmospheric conditions and prohibiting flight in other specified atmospheric conditions unless operation of the MPAI seal has been visually checked prior to entering the specific atmospheric conditions.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(d) Special flight permits will not be issued.

(e) This amendment becomes effective on November 22, 1999.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 98–201–068(A)R2, dated September 22, 1999, and AD 98–202–080(A)R1, dated January 27, 1999.

Issued in Fort Worth, Texas, on October 29, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–28945 Filed 11–4–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–1]

RIN 2120–AA66

Modification of the San Juan Low Offshore Airspace Area, PR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the San Juan Low Offshore Airspace Area by extending it to include the airspace northwest of San Juan, PR, between the 100-mile radius of the Fernando Luis Ribas Dominicci Airport and the San Juan Control Area/Flight Information Region (CTA/FIR) and Miami CTA/FIR boundary. This action increases the airspace managed by domestic air traffic control (ATC). Extension of this Class E airspace area will enhance the management of air traffic operations and result in more efficient use of that airspace.

EFFECTIVE DATE: 0901 UTC, December 30, 1999.

FOR FURTHER INFORMATION CONTACT: Terry Brown, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On March 2, 1993, the FAA published a final rule (58 FR 12128) which, in part, designated the San Juan Low Offshore Airspace Area. This designation was necessary to comply with the Airspace Reclassification final rule (56 FR 65638; December 17, 1991). The San Juan Low Offshore Airspace Area consists of Class E airspace from 5,500 feet mean sea level (MSL) up to, but not including, FL 180 within a 100-mile radius of the Fernando Luis Ribas Dominicci Airport, San Juan, PR. This airspace, however, is inadequate to support the Caribbean Special Area Navigation (RNAV) Routes currently being evaluated in the Bahamas/Caribbean area due to the rapid growth of air traffic activity in the area. Therefore, there is a need to designate additional airspace wherein domestic ATC procedures will be used to provide more efficient control of aircraft operations.

On June 7, 1999, the FAA proposed to amend the San Juan Low Offshore Airspace Area (64 FR 30261). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. In response to the notice, the FAA received one comment from the Air Line Pilots Association supporting this action. Except for editorial changes, this rule is the same as that proposed in the notice.

The Rule

This action amends 14 CFR part 71 by amending the San Juan Low Offshore Airspace Area. This extended area will consist of that portion of offshore airspace northwest of San Juan, PR, between the 100-mile radius of the Fernando Luis Ribas Dominicci Airport and the San Juan CTA/FIR and Miami CTA/FIR boundary.

This modification will support the implementation of the Caribbean Special RNAV Routes for aircraft equipped with advanced navigation systems by creating a seamless environment of controlled airspace between Florida and Puerto Rico. Increasing the airspace managed by domestic ATC procedures will enhance safety, increase system capacity, reduce the cost of aircraft operations, and decrease controller workload.

Offshore airspace area designations are published in paragraph 6007 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Offshore airspace area listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. This regulation therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

International Civil Aviation Organization (ICAO) Considerations

As part of this rule relates to navigable airspace outside the United States, this notice was submitted in accordance with the ICAO International Standards and Recommended Practices.

The application of International Standards and Recommended Practices by the FAA, Office of Air Traffic Airspace Management, in areas outside U.S. domestic airspace is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of Article 12 and Annex 11 is to ensure that civil aircraft operations on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices in Annex 11 apply to airspace under the jurisdiction of a contracting state, derived from ICAO. Annex 11 provisions apply when air traffic services are provided and a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting this responsibility may apply the International Standards and Recommended Practices that are consistent with standards and practices utilized in its domestic jurisdiction.

In accordance with Article 3 of the Convention, state-owned aircraft are exempt from the Standards and Recommended Practices of Annex 11. The United States is a contracting state to the Convention. Article 3(d) of the Convention provides that participating state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Because this amendment involves, in part, the designation of navigable airspace outside of the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6007 Offshore Airspace Areas

* * * * *

San Juan Low, PR [Revised]

That airspace extending upward from 5,500 feet MSL from the point of intersection of the San Juan Oceanic CTA/FIR and Miami Oceanic CTA/FIR boundary at lat. 21°08′00″ N., long. 67°45′00″ W., thence from that point southeast via a straight line to intersect a 100-mile radius of the Fernando Luis Ribas Dominicci Airport at lat. 19°47′28″ N., long. 67°09′37″ W., thence clockwise via a 100-mile radius of the Fernando Luis Ribas Dominicci Airport to lat. 18°53′05″ N., long. 67°47′43″ W., thence from that point northwest via a straight line to intersect the point where the Santo Domingo FIR turns northwest at lat. 19°39′00″ N., long. 69°09′00″ W., thence from that point northeast along the San Juan CTA/FIR and

Miami CTA/FIR boundary to the point of beginning.

* * * * *

Issued in Washington, DC, on November 1, 1999.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 99–29042 Filed 11–4–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 99–AEA–12]

RIN 2120–AA66

Change Name of Using Agency for Restricted Area R–5203; Oswego, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the name of the using agency for Restricted Area R–5203; Oswego, NY, from ''Air National Guard, Northeast Air Defense Sector/DOS, Rome, NY,'' to ''Air National Guard, 174th Fighter Wing, Hancock Field, NY.'' This change is required due to a realignment of responsibilities within the Air National Guard.

EFFECTIVE DATE: 0901 UTC, December 30, 1999.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

As a result of a realignment of responsibilities within the Air National Guard, the using agency for Restricted Area R–5203 is being changed from the Northeast Air Defense Sector, Rome, NY, to the 174th Fighter Wing, Hancock Field, NY. The Air National Guard requested this change to facilitate more efficient scheduling of the restricted area.

The Rule

This action amends 14 CFR part 73 by changing the using agency for Restricted Area R–5203, Oswego, NY, from ''Air National Guard, Northeast Air Defense Sector/DOS, Rome, NY,'' to ''Air National Guard, 174th Fighter Wing, Hancock Field, NY.''

Since this administrative change will not alter the boundaries, altitudes, or time of designation for R–5203 or the activities conducted therein; I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Section 73.52 of part 73 was republished in FAA Order 7400.8G, dated September 1, 1999.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This action involves a minor administrative change to amend the name of the using agency of an existing restricted area. There are no changes to the dimensions of the restricted area, or to air traffic control procedures or routes as a result of this action. Therefore, this action is not subject to environmental assessments and procedures in accordance with FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts,'' and the National Environmental Policy Act of 1969.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.52 [Amended]

2. § 73.52 is amended as follows:

* * * * *

R–5203 Oswego, NY [Amended]

By removing ''Using agency. Air National Guard, Northeast Air Defense Sector/DOS, Rome, NY,'' and adding ''Using agency. Air National Guard, 174th Fighter Wing, Hancock Field, NY.''

* * * * *

Issued in Washington, DC, on October 28, 1999.

Paul Gallant,

Acting Manager, Airspace and Rules Division.

[FR Doc. 99–29040 Filed 11–4–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 738, 740, and 746

[Docket No. 990923261–9261–01]

RIN 0694–AB99

Exports to Kosovo

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to exempt the Serbian province of Kosovo (''Kosovo'') from certain license requirements for exports and reexports to Serbia of items subject to the Export Administration Regulations (EAR).

EFFECTIVE DATE: This rule is effective November 5, 1999.

FOR FURTHER INFORMATION CONTACT: James A. Lewis, Director, Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, Telephone: (202) 482–4196.

SUPPLEMENTARY INFORMATION:

Background

In Resolution 1203 (adopted on October 24, 1998), the United Nations Security Council (UNSC) expressed alarm at what it described as the continuing grave humanitarian situation throughout Kosovo and the impending humanitarian catastrophe there. In response to the Serbian government's continued ethnic cleansing in its Kosovo province and its rejection of the proposed peace agreement accepted by the Kosovars, NATO (including the United States) took military action intended to halt the mass killing and dislocation of ethnic Albanians in Kosovo and to prevent a widening of the conflict.

In response to the situation in Kosovo, Executive Order 13121 of April 30, 1999, tightened existing U.S. economic sanctions against Serbia, including the province of Kosovo. On May 4, 1999, BXA published a rule amending the

EAR to require a license for exports and reexports of all items subject to the EAR to Serbia, including Kosovo (64 FR 24018). Executive Order 13121 delegated authority to administer the sanctions to the Department of the Treasury's Office of Foreign Assets Control (OFAC). By issuing General License 3 under the Kosovo Sanctions Regulations (31 CFR Part 586) on May 20, 1999, OFAC generally authorized certain transactions incident to exports licensed by BXA, thereby eliminating the need to seek separate authorization from two agencies for most export and reexport transactions.

In the wake of the cessation of hostilities and the withdrawal of Serbian troops from Kosovo, the United States Government is by this rule exempting Kosovo from the additional license requirements imposed on Serbia by the May 4, 1999, rule, thus returning Kosovo to the status it had prior to that date. General License No. 4, issued by the Office of Foreign Assets Control (OFAC) of the Department of the Treasury on August 17, 1999, effects a complementary exemption of Kosovo from OFAC's ''Federal Republic of Yugoslavia (Serbia and Montenegro) Kosovo Sanctions Regulations' (see 31 CFR part 586).

For purposes of the EAR, this rule eliminates the term ''Federal Republic of Yugoslavia'' and establishes Serbia, Kosovo, and Montenegro as distinct destinations under the EAR. This distinction does not address issues of sovereignty; it merely clarifies the applicability of export controls under the EAR to different destinations. Although comprehensive sanctions on Serbia (excluding Kosovo) remain in place, both Kosovo and Montenegro retain, for License Exception eligibility purposes, membership in ''Country Group B'' (see Supplement No. 1 to part 740) and ''Computer Tier 3'' (see § 740.7). Serbia, Kosovo, and Montenegro are now listed separately in the Commerce Country Chart (see Supplement No. 1 to part 738).

On July 14, 1998, BXA implemented an embargo on arms and arms-related items in the Export Administration Regulations (EAR) that applied to Serbia (including Kosovo) and Montenegro. The arms embargo continues in effect, and this rule leaves provisions regarding the arms embargo unaltered, except that ''Federal Republic of Yugoslavia (Serbia and Montenegro)'' is revised to read ''Serbia, Kosovo, and Montenegro.''

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) and continued in effect the EAR, and to the extent permitted by law, the provisions of the EAA in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629), August 13, 1998 (63 FR 44121), and August 10, 1999 (64 FR 44101, August 13, 1999).

Rulemaking Requirements

1. This final rule has been determined to be significant for purposes of E.O. 12866.

2. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 40 minutes to prepare and submit electronically and 45 minutes to submit manually on form BXA–748P. Notwithstanding any other provision of law, no person is required to respond nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (see 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Hillary Hess, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR Part 738

Administrative practice and procedure, Exports, Foreign trade.

15 CFR Part 740

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 746

Embargoes, Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, parts 738, 740, and 746 of the Export Administration Regulations (15 CFR parts 730–99) are amended as follows:

1. The authority citation for 15 CFR part 738 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; and Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

2. The authority citation for 15 CFR part 740 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; and Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

3. The authority citation for part 746 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; and Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

PART 738—[AMENDED]

4. Supplement No. 1 to Part 738 is amended by removing ''Serbia and Montenegro'' and adding, in alphabetical order, ''Kosovo,'' ''Montenegro,'' and ''Serbia,'' to read as follows:

Supplement No. 1 to Part 738—COMMERCE COUNTRY CHART

* * * * *

COMMERCE COUNTRY CHART
[Reason for Control]

Countries	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FS 1	CC 1	CC 2	CC 3	AT 1	AT 2
Kosovo (Serbian province of)	X	X		X		X	X	X	X	X		X		X		
Montenegro	X	X		X		X	X	X	X	X		X		X		
Serbia (not including Kosovo)	See part 746 of the EAR to determine whether a license is required in order to export or reexport to this destination.															

* * * * *

PART 740—[AMENDED]

5. Section 740.7 is amended by removing ''Serbia & Montenegro'' from paragraph (d)(1) and by adding, in alphabetical order, ''Kosovo (Serbian province of),'' ''Montenegro,'' and ''Serbia''.

6. Supplement No. 1 to part 740 is amended by removing ''Serbia & Montenegro'' from the list of ''Country Group B'' countries and by adding, in alphabetical order, ''Kosovo (Serbian province of)'' and ''Montenegro''.

PART 746—[AMENDED]

7. Section 746.9 is revised to read as follows:

§ 746.9 Serbia, Kosovo, and Montenegro.

The Department of Commerce maintains a comprehensive embargo on exports and reexports to Serbia, excluding the Serbian province of Kosovo (''Kosovo''). For purposes of the EAR, Serbia (excluding Kosovo), Kosovo, and Montenegro are separate destinations under the EAR. Additionally, a United Nations mandated arms embargo applies to certain items destined to Serbia, Kosovo, and Montenegro.

(a) *Serbia.* (1) *License requirements.* You will need a license to export or reexport all items subject to the EAR to Serbia, except as specified in paragraph (a)(3) of this section. This requirement does not apply to Kosovo or Montenegro; controls set forth in other parts of the EAR (e.g., the Commerce Country Chart) remain in effect for items destined to Kosovo or Montenegro.

(2) *Licensing policy.* Applications for export or reexport of all items subject to the EAR to Serbia will be reviewed on a case-by-case basis, with a presumption of denial for any items other than humanitarian items. BXA will approve sales of agricultural commodities and products, medicine, and medical equipment for civilian end-use when appropriate safeguards can be developed to prevent diversion to military, paramilitary or political use.

(3) *License Exceptions.* Items consigned to and for use by personnel and agencies of the U.S. Government under License Exception GOV (see § 740.11(b)(2) of the EAR) and individual gift parcels under License Exception GFT (see § 740.12(a) of the EAR) may be exported or reexported to Serbia, and temporary exports or reexports by the news media may be made to Serbia under License Exception TMP (see § 740.9(a)(2)(viii) of the EAR). No other License Exceptions are available for Serbia.

(b) *Serbia, Kosovo, and Montenegro.* (1) *License requirements.* Under Executive Order 12918 of May 26, 1994 (59 FR 28205, 3 CFR, 1994 Comp., p. 899) (which authorizes the Secretary of State and the Secretary of Commerce, under section 5 of the United Nations Participation Act and other authorities available to the respective Secretaries, to take all actions necessary to implement any arms embargo mandated by resolution of the United Nations Security Council), and in conformity with United Nations Security Council (UNSC) Resolution 1160 of March 31, 1998, an embargo applies to the sale or supply to Serbia, Kosovo, or Montenegro of arms and related matériel of all types and regardless of origin, such as weapons and ammunition, military vehicles and equipment, and spare parts for such items. You will therefore need a license for the sale, supply or export to Serbia, Kosovo, or Montenegro from the United States of embargoed items, as listed in paragraphs (b)(1)(i) and (ii) of this section. You will also need a license for the sale, supply, export or reexport to Serbia, Kosovo, or Montenegro of such items by any United States person in any foreign country or other location. (Reexport controls imposed under this paragraph (b)(1) apply only to reexports by U.S. persons. Reexport controls on U.S.-origin items to Serbia, Kosovo, or Montenegro set forth in other parts of the EAR remain in effect.) You will also need a license for the use of any U.S.-registered aircraft or vessel to supply or transport to Serbia, Kosovo, or Montenegro any such items. These requirements apply to embargoed items specified in paragraphs (b)(1)(i) and (b)(1)(ii) of this section, regardless of origin.

(i) Crime Control and Detection Equipment as identified on the CCL under CC Columns No. 1, 2 or 3 in the Country Chart column of the ''License Requirements'' section of the applicable ECCN.

(ii) Items described by ECCNs ending in ''018''; and 0A982, 0A983, 0A984, 0A985, 0A986, 0A988, 0A989, 0B986, 0E984, 1A005, 1A984, 1C998, 2A993, 3A980, 3A981, 3D980, 3E980, 4A980, 4D980, 4E980, 5A980, 6A002, 6A003.b.3 and b.4, 6E001, 6E002, 9A980, and 9A991.a.

(2) *Date of embargo.* The licensing requirements in paragraph (b) of this section were effective on July 14, 1998.

(3) *License policy.* Applications for export or reexport of all items listed in paragraphs (b)(1)(i) and (ii) of this section are subject to a general policy of denial. Consistent with United Nations Security Council Resolution 1160, this embargo is effective notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted prior to July 14, 1998, except to the extent provided in regulations, orders, directives or licenses that may be issued in the future under Executive Order 12918 or under the EAR.

(c) *Related controls.* The Department of State, Office of Defense Trade Controls, maintains related controls on arms and military equipment under the International Traffic in Arms Regulations (22 CFR parts 120 through 130). You should also contact the Department of the Treasury's Office of Foreign Assets Control concerning any restrictions which might apply to U.S. persons involving financial transactions with Serbia, Kosovo, or Montenegro, including those transactions related to the export or reexport of services and non-U.S.-origin items.

Dated: October 28, 1999.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 99–28855 Filed 11–4–99; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8840]

RIN 1545–AX61

Reopenings of Treasury Securities; Original Issue Discount

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the Federal income tax treatment of reopenings of Treasury securities. The temporary regulations change the definition of a qualified reopening. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**. The regulations in this document provide needed guidance to holders of reopened Treasury securities.

DATES: The regulations are effective November 5, 1999.

FOR FURTHER INFORMATION CONTACT: William E. Blanchard, (202) 622–3950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Sections 163(e) and 1271 through 1275 of the Internal Revenue Code (Code) provide rules for the Federal income tax treatment of interest and original issue discount (OID). On February 2, 1994, final regulations relating to these sections of the Code (TD 8517, 1994–1 C.B. 38) were published in the **Federal Register** (59 FR 4799). Section 1.1275–2(d)(2) of the regulations provides rules for the treatment of certain reopenings of Treasury securities.

On January 6, 1997, temporary regulations relating to the Federal income tax treatment of inflation-indexed debt instruments (TD 8709, 1997–1 C.B. 167) were published in the **Federal Register** (62 FR 615). Section 1.1275–7T(g) of those temporary regulations provided rules for the treatment of certain reopenings of Treasury Inflation-Indexed Securities. On September 7, 1999, § 1.1275–7T was redesignated as § 1.1275–7 (TD 8838, 64 FR 48545).

Explanation of Provisions

The Secretary of the Treasury is authorized to issue Treasury securities, including Treasury Inflation-Indexed Securities, and to prescribe terms and conditions for their issuance and sale. The Treasury Department sells securities throughout the year.

In January 1992, the Treasury Department determined that it will be prepared to provide additional quantities of a security to the public when an acute, protracted shortage develops. These reopenings are necessary to preserve the integrity and efficient functioning of the market in Treasury securities. See Department of the Treasury, Securities and Exchange Commission, and Board of Governors of the Federal Reserve System, *Joint Report on the Government Securities Market* (January 1992).

In order to ensure that the original and additional Treasury securities are fungible, § 1.1275–2(d) provides that the additional Treasury securities issued in a reopening are part of the same issue as the original Treasury securities if (1) The additional Treasury securities have the same terms as the original Treasury securities, (2) The additional Treasury securities are issued not more than 12 months after the original Treasury securities were first issued to the public, and (3) The additional Treasury securities are issued in a reopening intended to alleviate an acute, protracted shortage of the original Treasury securities (a qualified reopening). As a result, any discount generated upon the issuance of the additional Treasury securities in the reopening is market discount rather than OID.

Under § 1.1275–7(g), a reopening of Treasury Inflation-Indexed Securities is a qualified reopening for purposes of § 1.1275–2(d) even though the reopening is not intended to alleviate an acute, protracted shortage of the original Treasury securities.

For debt management and liquidity concerns, the Treasury Department has decided that it needs the ability to reopen an issue of Treasury securities within one year. Therefore, the temporary regulations in this document (§ 1.1275–2T) revise the rules for when a reopening is a qualified reopening by eliminating the acute, protracted shortage requirement. As a result, the Treasury Department can reopen an issue of outstanding Treasury securities at any time within 12 months after the issue date of the securities for any reason and the securities will be fungible for Federal income tax purposes.

The temporary regulations also revise the rules to determine the issue price and issue date of an issue of Treasury securities auctioned on or after November 2, 1998, to reflect changes in how Treasury securities are sold. On November 2, 1998, the Treasury Department switched from an average price auction to a single price auction for selling Treasury securities.

In response to comments, the IRS is proposing rules for reopenings of debt instruments other than Treasury securities. See the Proposed Rules section of this issue of the **Federal Register**.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of the regulations is William E. Blanchard, Office of Assistant Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding a new entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.1275–2T also issued under 26 U.S.C. 1275(d). * * *

Par. 2. Section 1.1271–0 is amended by:

1. Revising the entry for § 1.1275–2(d) in paragraph (b).

2. Adding an entry for § 1.1275–2T in numerical order in paragraph (b).

3. Revising the entry for § 1.1275–7(g) in paragraph (b).

The revisions and additions read as follows:

§ 1.1271–0 Original issue discount; effective date; table of contents.

* * * * *

(b) * * *

* * * * *

§ 1.1275–2 Special rules relating to debt instruments.

* * * * *

(d) [Reserved]

* * * * *

§ 1.1275–2T Special rules relating to debt instruments (temporary).

(a) through (c) [Reserved]

(d) Special rules for Treasury securities.

(1) Issue price and issue date.

(2) Reopenings of Treasury securities.

* * * * *

§ 1.1275–7 Inflation-indexed debt instruments.

* * * * *

(g) [Reserved]

* * * * *

Par. 3. Section 1.1275–2 is amended by revising paragraph (d) to read as follows:

§ 1.1275–2 Special rules relating to debt instruments.

* * * * *

(d) [Reserved] For further guidance, see § 1.1275–2T(d).

* * * * *

Par. 4. Section 1.1275–2T is added to read as follows:

§ 1.1275–2T Special rules relating to debt instruments (temporary).

(a) through (c) [Reserved] For further guidance, see § 1.1275–2(a) through (c).

(d) *Special rules for Treasury securities*—(1) *Issue price and issue date*—(i) *In general.* The issue price of an issue of Treasury securities is the price of the securities sold at auction. In addition, the issue date of the issue is the first settlement date of a substantial amount of the securities.

(ii) *Treasury securities auctioned before November 2, 1998.* For an issue of Treasury securities auctioned before November 2, 1998, the issue price of the issue is the average price of the securities sold. In addition, the issue date of the issue is the first settlement date on which a substantial amount of the securities in the issue is sold.

(2) *Reopenings of Treasury securities*—(i) *Treatment of additional Treasury securities.* Additional Treasury securities issued in a qualified reopening are part of the same issue as the original Treasury securities and have the same issue price and issue date as the original Treasury securities. This paragraph (d)(2) applies to qualified reopenings that occur on or after March 25, 1992.

(ii) *Definitions*—(A) *Additional Treasury securities.* Additional Treasury securities are Treasury securities with terms that are in all respects identical to the terms of the original Treasury securities.

(B) *Original Treasury securities.* Original Treasury securities are securities comprising any issue of outstanding Treasury securities.

(C) *Qualified reopening.* A qualified reopening is a reopening that occurs not more than one year after the original Treasury securities were first issued to the public. For reopenings of Treasury securities (other than Treasury Inflation-Indexed Securities) that occur prior to November 5, 1999, a qualified reopening is a reopening of Treasury securities that satisfies the preceding sentence and that was intended to alleviate an acute, protracted shortage of the original Treasury securities.

§ 1.1275–7 [Amended]

Par. 5. Section 1.1275–7 is amended by removing and reserving paragraph (g).

Approved: October 29, 1999.

David A. Mader,

Acting Deputy Commissioner of Internal Revenue.

Jonathan Talisman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 99–28741 Filed 11–3–99; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–192–1–9962(a); TN–193–1–9963(a); FRL–6465–1]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Source Specific Revisions to the Nonregulatory Portion of the Tennessee SIP Regarding Emission Limits for Particulate Matter and Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving two requests by the Tennessee Department of Air Pollution Control (TDAPC) to incorporate revised permits for eight facilities into the Tennessee State Implementation Plan (SIP). All of the permits affected by this action were previously approved into the SIP to meet various Clean Air Act (CAA) and regulatory requirements. EPA is approving an April 9, 1997, submittal from TDAPC that amends permits for the Soda Recovery Furnace and the Smelt Tank at Willamette Industries Inc., Kingsport, to establish revised particulate matter (PM) emission limits for these units. The revised emission limits will have a net positive impact on ambient air quality. An April 14, 1997, submittal from the Chattanooga-Hamilton County Air Pollution Control Bureau (CHCAPCB), through TDAPC, revises the permits as amended by agreed order for seven miscellaneous metal parts coaters located in Hamilton County to qualify them as a synthetic minor sources. Based on supplemental information received from CHCAPCB, EPA has concluded that one of these seven facilities is now a new source and thus need not be included in this approval action. EPA is approving the revised permits for the remaining six facilities into the SIP.

DATES: This direct final rule is effective January 4, 2000 without further notice, unless EPA receives adverse comment by December 6, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: All comments should be addressed to: Allison Humphris at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Allison Humphris, 404/562–9030.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243–1531. 615/532–0554.

Chattanooga-Hamilton County Air Pollution Control Bureau, 3511 Rossville Boulevard, Chattanooga, Tennessee, 37407–2495. 423/867–4321.

FOR FURTHER INFORMATION CONTACT: Allison Humphris at 404/562–9030.

SUPPLEMENTARY INFORMATION:

I. Background

A. Willamette Industries, Inc.—Kingsport, Tennessee

On December 7, 1982, EPA approved permits establishing PM emission limits for the Soda Recovery Furnace and the Smelt Tank at Mead Paper Company (now Willamette Industries Inc.), Kingsport, Tennessee, into the Tennessee SIP (47 FR 54936). These permits, along with numerous other facility permits, satisfied Reasonably Available Control Technology (RACT) requirements and comprised part of the Kingsport secondary particulate nonattainment area plan. On April 9, 1997, TDAPC submitted revised permits which establish alternate emission standards for these two units. The revised emission limits lower the permitted PM emission limit for the Soda Recovery Furnace from 44.1 pounds per hour (lb/hr) to 35.0 lb/hr to offset an increase in the permitted PM emission limit for the Smelt Tank from 1.3 lb/hr to 3.0 lb/hr. In a letter dated March 26, 1998, EPA informed TDAPC that the revised permits were unapprovable, as they failed to include conditions to verify ongoing compliance with these emission limits. On September 16, 1999, TDAPC submitted supplemental information consisting of practically enforceable conditions that amend the revised permits to address EPA's concerns. The amended revised permits specify operating parameters for the Soda Recovery Furnace, and production rates for the Smelt Tank, that must be maintained to ensure compliance with the permitted emission limits.

B. Seven Miscellaneous Metal Parts Coaters—Hamilton County, Tennessee

On June 28, 1989, EPA approved the permits as amended by agreed order for fourteen facilities into the Tennessee SIP to demonstrate full implementation of the ozone SIP in Hamilton County, thereby partially fulfilling CAA requirements for redesignating this area to attainment for ozone (54 FR 27164). The permits as amended by agreed order for ten of these facilities restricted the volatile organic compound (VOC) emissions of each to below the 25 ton per year (TPY) applicability limit for sources subject to VOC RACT regulations. On April 14, 1997, CHCAPCB submitted revised permits as amended by order for seven of these ten facilities to establish additional, more stringent, federally enforceable limits on their potential to emit to qualify them as synthetic minor sources. These limits restrict total VOC emissions from metal coating operations to below 25 tons per year (TPY), total VOC emissions to below 100 TPY, total hazardous air pollutant (HAP) emissions to below 25 TPY and individual HAP emissions to below 10 TPY. Prior to this action, the potential VOC and HAP emissions of all seven facilities exceeded one or more of these criteria. The seven facilities include:

(1) Browning-Ferris Industries of TN, Inc. (formerly Browning-Ferris Industries)
(2) Cannon Equipment Southeast, Inc. (formerly Cumberland Corporation)
(3) EK Associates, L.P. (formerly Ekco/Gladco, Inc.)
(4) Mckee Foods Corporation (formerly McKee Baking Company)
(5) Metal Systems, Inc. (formerly Electrical Systems, Inc.)
(6) Sherman & Reilly, Inc.
(7) Tuftco Corporation

On December 23, 1998, EPA informed CHCAPCB that the revised permits as amended by agreed order for EK Associates, L.P. and Metal Systems Inc. were unapprovable, as they failed to include conditions to verify ongoing compliance with the revised emission limits. In a letter dated February 19, 1998, CHCAPCB indicated that, subsequent to the April 14, 1997 submittal, the facility owned and operated by EK Associates, L.P. was purchased by Pressco. Inc., who sold the existing equipment, purchased new equipment and commenced a new operation. EPA notified CHCAPC that, based on this information, Pressco could be considered a new source, and did not need to submit a revised permit for inclusion in the SIP. In supplemental information dated April 22, 1999, CHCAPCB submitted a revised permit as amended by agreed order for Metal Systems Inc. that included conditions restricting the maximum usage and VOC content of materials used by this facility, thereby addressing the second of EPA's concerns with the original submittal.

II. Analysis of State's Submittal

A. Willamette Industries, Inc.—Kingsport, Tennessee

Following review of TDAPC's April 9, 1997 submittal and subsequent supplemental information, EPA is incorporating the revised permits for the Soda Recovery Furnace and the Smelt Tank at Willamette Industries, Inc. into the SIP. The PM emission limits contained in the revised permits will reduce the existing total allowable PM emissions for these two units from 45.4 lb/hr to 38.0 lb/hr. The results of atmospheric dispersion modeling conducted by the facility also show that the revised emission limits for these two units will have a net positive impact on ambient air quality. The alternate emission standards to be granted to this facility are thus consistent with existing SIP requirements, as they will reduce PM emissions at least as much as is required under other applicable rules.

B. Seven Miscellaneous Metal Parts Coaters—Hamilton County, Tennessee

Following review of CHCAPCB's April 14, 1997 submittal and subsequent supplemental information, EPA is incorporating the revised permits as amended by agreed order for six of the seven above-listed miscellaneous metal parts coaters into the SIP. The revised permits are consistent with existing State and local SIP requirements, as they replace the emission limits contained in the existing permits with more stringent emission limits. Moreover, EPA has determined that all six revised permits include conditions adequate to verify ongoing compliance with the revised emission limits (*i.e.* quantifiable limits on VOC coating content and usage). Based on supplemental information received from CHCAPCB, the seventh facility included in the April 14, 1997 submittal, EK Associates, L.P., is now a new source (Pressco, Inc.). The revised permit for this facility thus need not be incorporated into the SIP and is not included in this approval action.

III. Final Action

EPA is approving the aforementioned changes to the SIP because they are consistent with Clean Air Act and EPA requirements.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective January 4, 2000 without further notice unless the Agency receives adverse comments by December 6, 1999.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and

informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 4, 2000 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Orders on Federalism

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation.

In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, (64 FR 43255 (August 10, 1999)), which will take effect on November 2, 1999. In the interim, the current Executive Order 12612, (52 FR 41685 (October 30, 1987)), on federalism still applies. This rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 12612. The rule affects only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no

additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 4, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: October 18, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Part 52 of chapter I, title 40, *Code of Federal Regulations,* is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart RR—Tennessee

2. Section 52.2220(d) is amended by revising the entries for ''Revised Permits for the Kingsport Particulate Nonattainment Area'' and ''Miscellaneous Metal Parts'' to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(d) EPA-approved State Source-specific Requirements.

EPA-APPROVED TENNESSEE SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanation
Revised Permits for the Kingsport Particulate Nonattainment Area	N/A	09/15/99	11/5/99	Various permits.
* * * * *				
Miscellaneous Metal Parts	N/A	04/05/99	11/5/99	13 sources.
* * * * *				

* * * * *

[FR Doc. 99–28211 Filed 11–4–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–105–1–9949a; TN–209–1–9950a; FRL–6469–4]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to Knox County portion of Tennessee Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Knox County portion of the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee Department of Environment and Conservation on February 26, 1993, and June 23, 1998. The revisions add clarification to the section regarding exceptions to prohibition with a permit in the Open Burning rule by replacing the existing language in Section 16.3 with new language. Private residences and farming operations are defined in more detail as purposes for which open burning is allowed, and church congregational property is being added to excepted purposes. In addition, an open burning exemption is being removed from the permits chapter.

DATES: This direct final rule is effective January 4, 2000 without further notice, unless EPA receives adverse comment by December 6, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: All comments should be addressed to Steven M. Scofield at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the State submittals are available at the following addresses for inspection during normal business hours:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61

Forsyth Street, SW, Atlanta, Georgia 30303. Steven M. Scofield, 404/562–9034.

Division of Air Pollution Control, Tennessee Department of Environment and Conservation, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243–1531. 615/532–0554.

Knox County Department of Air Pollution Control, 400 West Main Avenue, Suite 339, City-County Building, Knoxville, Tennessee 37902–2405. 423/215–2488.

FOR FURTHER INFORMATION CONTACT: Steven M. Scofield at 404/562–9034.

SUPPLEMENTARY INFORMATION:

I. Background

On February 26, 1993, the State of Tennessee, through the Department of Environment and Conservation, submitted a revision incorporating Section 16.3.A-C of the Open Burning rule into the Knox County portion of the SIP. This section identifies exceptions to the prohibitions to open burning in Knox County. The revisions add clarification to the section regarding exceptions to prohibition with a permit in the Open Burning rule by replacing the existing language in Section 16.3 with new language to add exceptions for land clearing of brush wood (of which no part may exceed three (3) inches in diameter) grown on that land where the land is being maintained for established private residences, farming operations and established church congregational property.

On June 23, 1998, the State of Tennessee, through the Department of Environment and Conservation, submitted a revision incorporating a revision to section 25.6.E by removing the permit exemption for operations regulated by section 16 and reserving section 25.6.E.

II. Final Action

The EPA is approving the revisions to the open burning and permits regulations because they are consistent with EPA policy and the Clean Air Act (CAA).

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective January 4, 2000 without further notice unless the Agency receives adverse comments by December 6, 1999.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 4, 2000 and no further action will be taken on the proposed rule.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Orders on Federalism

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation.

In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, (64 FR 43255 (August 10, 1999),) which will take effect on November 2, 1999. In the interim, the current Executive Order 12612, (52 FR 41685 (October 30, 1987),) on federalism still applies. This rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 12612. The rule affects only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) Concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the

requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 4, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 6, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

Part 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart RR—Tennessee

2. Section 52.2239 is amended by adding paragraph (c)(128) to read as follows:

§ 52.2239 Original Identification of plan section.

* * * * *

(c) * * *

(128) Revisions to Chapter 16, ''Open Burning'', of the Knox County portion of the Tennessee State Implementation Plan were submitted by the Tennessee Department of Environment and Conservation on February 26, 1993. Revisions to Chapter 25, ''Permits'', of the Knox County portion of the Tennessee State Implementation Plan were submitted by the Tennessee Department of Environment and Conservation on June 23, 1998.

(i) Incorporation by reference.

(A) Section 16.3 Exceptions to Prohibition—With Permit, adopted on January 13, 1993.

(B) Section 25.6 Exemptions, paragraph E, adopted on June 10, 1998.

(ii) Other material. None.

[FR Doc. 99–28879 Filed 11–4–99; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–11

RIN 3090–AG02

Relocation of FIRMR Provisions Relating to GSA's Role in the Records Management Program

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Interim rule; extension of expiration date.

SUMMARY: The General Services Administration (GSA) is extending the expiration date of an interim rule on Federal Property Management Regulations provisions regarding records management.

DATES: *Effective date:* The interim rule published at 61 FR 41000 was effective August 8, 1996.

Expiration Date: The expiration date of the interim rule published at 61 FR 41000 is extended through December 31, 2000.

FOR FURTHER INFORMATION CONTACT: R. Stewart Randall, Jr. Office of Governmentwide Policy, telephone 202–501–4469.

SUPPLEMENTARY INFORMATION: FPMR interim rule B–1 was published in the **Federal Register** on August 7, 1996, 61 FR 41000. The expiration of the interim rule was December 31, 1997. A supplement published in the **Federal Register** on October 31, 1997, 62 FR 58922, extended the expiration date through December 31, 1998. Another supplement was published in the **Federal Register** on January 19, 1999, 64 FR 2857, that extended the expiration date through December 31, 1999. This supplement further extends the expiration date through December 31, 2000.

List of Subjects in 41 CFR part 101–11

Archives and records, Computer technology, Telecommunications, Government procurement, Property management, Records management, and Federal information processing resources activities.

Therefore the expiration date for interim rule B–1 adding 41 CFR part 101–11 published at 61 FR 41000, August 7, 1996, and extended until December 31, 1999 at 64 FR 2857, January 19, 1999, is further extended until December 31, 2000.

Dated: October 26, 1999.

David J. Barram,

Administrator of General Services.

[FR Doc. 99–28962 Filed 11–4–99; 8:45 am]

BILLING CODE 6820–34–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 54 and 69

[CC Docket Nos. 96–45 and 96–262; FCC 99–290]

Federal-State Joint Board on Universal Service Access Charge Reform

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document concerning the Federal-State Joint Board on Universal Service: Access Charge Reform adopts modifications to the Commission's rules consistent with the portions of the United States Court of Appeals for the Fifth Circuit decision concerning the assessment and recovery of universal service contributions, and the Lifeline program.

DATES: Effective November 1, 1999.

FOR FURTHER INFORMATION CONTACT: Jack Zinman, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Sixteenth Order on Reconsideration in CC Docket No. 96–45, Eighth Report and Order in CC Docket No. 96–45, and Sixth Report and Order in CC Docket No. 96–262 released on October 8, 1999. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

I. Introduction

1. On July 30, 1999, a three-judge panel of the United States Court of Appeals for the Fifth Circuit issued a decision affirming in part, remanding in part, and reversing in part the Commission's May 8, 1997 *Universal Service Order*, 62 FR 32862 (June 17, 1997). Several of the court's rulings in that decision affect the assessment and recovery of universal service contributions, as well as the Commission's Lifeline program for low-income consumers. The court's mandate from the decision is scheduled to take effect on November 1, 1999. Accordingly, in this Order, we adopt modifications to our rules consistent with those portions of the court's decision concerning the assessment and recovery of universal service contributions, and the Lifeline program. These rule changes shall become effective on November 1, 1999.

2. This Order reflects our effort to respond promptly to the court's forthcoming mandate. The actions we take are transitional in view of the limited time and data available to us in implementing the court's mandate that we change our rules and past practices by a specific date. In view of these constraints, our actions represent our best effort to take short-term action, subject to later refinement if necessary, in order to assure compliance with the court's mandate.

II. Opinion by the Fifth Circuit Court of Appeals

3. Numerous parties filed petitions for review of the Commission's Universal Service Order. Those petitions were consolidated before the Fifth Circuit, which issued an opinion on July 30, 1999. In response to the arguments of Petitioner COMSAT Corporation (COMSAT), the court reversed and remanded to the Commission for further consideration the Commission's decision to assess contributions based on contributors' combined interstate and international revenues. COMSAT did not challenge the Commission's jurisdiction to include international revenues in calculating carriers' contributions. COMSAT argued, however, that including the international revenues of interstate carriers in the revenue base was unreasonable for carriers such as COMSAT whose interstate revenues account for a small percentage of their total annual revenues and whose annual contribution to universal service would exceed their annual interstate revenues. COMSAT argued, and the court agreed, that this result is contrary to the statutory requirement in section 254(d) of the Act, that contributions be made on an ''equitable and nondiscriminatory basis.'' Specifically, the court found that the Commission failed to demonstrate how requiring COMSAT to pay more in universal service contributions than it derives in interstate revenues satisfies the ''equitable'' language of section 254(d). Additionally, the court criticized the contribution requirement at issue as ''discriminatory'' under section 254(d), on the basis that the application of that requirement ''damages some international carriers like COMSAT more than it harms others.'' Accordingly, the court reversed and remanded for further consideration the Commission's decision to assess the international revenues of interstate carriers.

4. With respect to the Commission's methodology for assessing contributions for the universal service support mechanisms for schools and libraries, and rural health care providers, the court found that the Commission had exceeded its jurisdictional authority by assessing contributions for those programs based, in part, on the intrastate revenues of universal service contributors. Accordingly, the court reversed the Commission's decision to include intrastate revenues in the contribution base for the schools and libraries, and rural health care support mechanisms.

5. The court also reversed the Commission's ''decision to require [incumbent LECs] to recover universal service contributions from their interstate access charges.'' Finding that the Commission had ''required'' incumbent LECs to recover their contributions from interstate access charges, the court held that this requirement maintained an implicit subsidy in violation of section 254(e) of the Act.

6. Finally, the court reversed the Commission's decision to prohibit carriers eligible for universal service support from disconnecting Lifeline service to consumers who fail to pay toll charges. The court held that the Commission lacked jurisdiction under the Act to impose this ''no disconnect'' requirement on carriers.

III. Response to the Fifth Circuit's Opinion

A. Procedural Response

7. On September 9, 1999, the Commission filed a motion to stay the court's mandate, which had been scheduled to take effect on September 20, 1999. On September 13, 1999, the Commission, GTE, and AT&T each filed petitions for rehearing with the court. On September 28, 1999, the court denied all of the petitions for rehearing, and granted, in part, the Commission's motion for stay. In its order granting, in part, the Commission's motion for stay, the court ordered its July 30, 1999 mandate to issue on November 1, 1999. In light of the court's September 28, 1999 rulings, the rule changes shall become effective on November 1, 1999.

B. Changes to the Commission's Rules

1. Single Contribution Base for Universal Service Support Mechanisms

8. Overview. In light of the court's ruling, we amend §§ 54.706 and 54.709 of our rules to provide for a single contribution base for purposes of funding all of the universal service support mechanisms. Specifically, in response to the court's determination that the Commission lacks jurisdiction to assess providers' intrastate revenues, we have eliminated intrastate revenues from the contribution base. Consistent with the court's ruling, we also reconsider the basis for assessing the international revenues of interstate providers. No party has challenged the Commission's decision to include international revenues generally. The court, however, agreed with COMSAT's argument that our rules, as applied, are in some instances inequitable and discriminatory. We modify §§ 54.706 and 54.709 of our rules to exclude from the contribution base the international end-user telecommunications revenues of each interstate telecommunications provider whose interstate end-user telecommunications revenues constitute less than 8 percent of its combined interstate and international end-user telecommunications revenues. Except for revenues excluded pursuant to revised § 54.706(c), the new contribution base will consist of interstate providers' interstate and international end-user telecommunications revenues.

9. Our rules provide that the Commission will determine contribution factors on a quarterly basis. Because the court's mandate will issue on November 1, 1999, however, the Commission must establish contribution factors in the middle of the quarter, to comply with the court's decision. The Commission's rules permit us, on our own motion, to waive our rules for good cause shown. Because it is necessary to issue new contribution factors before the start of the next quarter in order to comply with the judicial mandate, we find that good cause exists to waive § 54.709(a) on this occasion to the extent that it provides that contribution factors will be adopted on a quarterly basis. In addition, because of the need to revise our rules so that they will be in compliance with the mandate as of November 1, 1999, we find good cause to dispense with notice and comment requirements that might otherwise apply, pursuant to the Administrative Procedure Act, because those requirements are impracticable and contrary to the public interest.

10. *Revised Fourth Quarter Contribution Factor.* On September 10, 1999, the Commission released proposed fourth quarter 1999 contribution factors, which USAC is using to bill contributors for their October 1999 contributions. Consistent with the Commission's rules in effect on that date, one of those contribution factors was calculated based on contributors' intrastate, interstate, and international end-user telecommunications revenues for the July 1998 through December 1998 period, as reported by contributors on the March 1999 Universal Service Worksheet (FCC Form 457). In order to comply with the Fifth Circuit's decision, we must eliminate intrastate revenues from the contribution base. Eliminating intrastate revenues from the new contribution base will eliminate the need for two contribution factors. Specifically, our revised rules provide for a single contribution factor that will be calculated based on contributors' interstate and international end-user telecommunications revenues. That factor will be applied to individual contributors' combined interstate and international end-user telecommunications revenues to calculate contributions for all of the universal service support mechanisms. The elimination of intrastate revenues from the contribution base will reduce the contributions of incumbent LECs. To the extent an incumbent LEC is recovering its universal service contributions in interstate access charges, it must file tariffs reducing its access charges correspondingly.

11. In order to implement this change by November 1, 1999, the effective date of the court's mandate, the Common Carrier Bureau (Bureau) is releasing today a revised proposed fourth quarter contribution factor that will be applicable to carrier contributions for November and December 1999. We direct USAC to calculate all contributor bills for November and December 1999 based on this revised fourth quarter 1999 contribution factor. For the month of October 1999, USAC shall continue to bill contributors, and contributors shall continue making contributions to universal service, in accordance with the Commission's current contribution rules. Providers that fail to contribute to the universal service support mechanisms in accordance with the Commission's rules will be subject to enforcement action by the Commission.

12. *Limited International Revenues Exception*. Consistent with the court's ruling, we modify §§ 54.706 and 54.709 of our rules. A provider of interstate and international telecommunications shall not be required to contribute based on its international end-user telecommunications revenues if its interstate end-user telecommunications revenues constitute less than 8 percent of its combined interstate and international end-user telecommunications revenues. This modification is consistent with the court's ruling because it will exclude from the contribution base the international end-user telecommunications revenues of any telecommunications provider whose annual contribution to the federal universal service support mechanisms, based on the provider's interstate and international end-user telecommunications revenues, would exceed the amount of the provider's interstate end-user telecommunications revenues. We do not anticipate that the universal service contribution factor will exceed 8 percent in the near future. Thus, this 8 percent rule ensures that a provider's universal service contribution will not exceed the amount

of its interstate end-user telecommunications revenues.

13. The operation of this rule is demonstrated in the following example. Assume a hypothetical provider with $100 of interstate and international end-user telecommunications revenues, consisting of $5 of interstate revenues and $95 of international revenues. Also assume a contribution factor of 0.06, or 6 percent. In the absence of the 8 percent rule, the provider's contribution ($6) would exceed its interstate revenues ($5)—a result contrary to the court's ruling. Under our 8 percent rule, however, the provider's interstate revenues ($5) are less than 8 percent of its combined interstate and international revenues and, therefore, the provider is not required to contribute on the basis of its international revenues—a result consistent with the court's ruling. The provider must still contribute, however, on the basis of its $5 of interstate revenues. This hypothetical is only for purposes of illustration. Under existing rules, if such a provider's annual contribution to universal service would be less than $10,000 in a given year, the provider would not be required to submit a contribution for that year, *see* § 54.708.

14. *Equitable Requirement of Section 254(d).* We believe that the international revenues exception adopted here is responsive to the court's concerns regarding the fairness of our assessment methodology in that it will permit a contributor that derives the substantial majority of its revenues from the provision of international services to calculate its contribution to universal service based solely on its domestic interstate revenues. We conclude that this exception further addresses the court's concerns by ensuring that a provider is not assessed a contribution in an amount exceeding that provider's annual interstate end-user telecommunications revenues. Because providers will receive a financial benefit, overall, from providing interstate service, we conclude that our revised rule is equitable.

15. We decline to adopt a more expansive exception than the rule adopted here or to exclude international revenues from the contribution requirement altogether in light of section 254(d)'s mandate requiring all interstate telecommunications providers to contribute without regard to whether those providers' revenues are interstate or international. Moreover, nothing in the court's decision suggests that the Commission's decision to assess international revenues is inconsistent with the Act, outside of the impact it had on Comsat and similarly situated carriers. In addition, we conclude that providers whose interstate revenues account for a greater amount of their combined interstate and international revenues than the threshold adopted here clearly receive a direct benefit from universal service insofar as their domestic interstate business benefits from the expanded network that is fostered by universal service. For these providers, their interstate telecommunications services are not merely ancillary to their provision of international telecommunications services. Accordingly, as direct beneficiaries of an expanded domestic network, such carriers reasonably should be required to contribute to universal service based on their combined interstate and international revenues.

16. *Nondiscriminatory Requirement of Section 254(d).* The international revenues exception that we adopt here also addresses the court's concerns regarding the potentially discriminatory impact of our previous assessment methodology. As stated by the court, the FCC's interpretation is ''discriminatory,'' because the agency concedes that its rule damages some international carriers like COMSAT more than it harms others. Any competitive disparity claimed by COMSAT or by similarly situated carriers should be minimized as a result of the exception that we adopt today. Specifically, such a provider of interstate and international telecommunications shall not be required to contribute based on its international revenues if its interstate end-user telecommunications revenues constitute less than 8 percent of its combined interstate and international end-user telecommunications revenues. Therefore, providers whose interstate telecommunications services are merely ancillary to their international operations will not be in a worse position than providers that, by virtue of their status as exclusively international providers, are not subject to the universal service contribution requirements.

17. *Specific, Predictable, and Sufficient Requirement of Section 254(d).* The limited international revenues exception that we adopt today also meets the requirement in section 254(d) of the Act that universal service support mechanisms be specific, predictable, and sufficient. By setting the international exception at the predetermined level of 8 percent, we establish a bright-line rule for providers. As soon as providers prepare their worksheets, they will know with certainty whether their interstate end-user telecommunications revenues comprise 8 percent or more of their total interstate and international end-user telecommunications revenues and, thus, whether they must contribute on the basis of their international end-user telecommunications revenues during the upcoming quarters in which their reported revenues will be assessed. In sum, the 8 percent rule allows the provider to make decisions based on the specific and predictable operation of the support mechanism.

18. As an alternative, we considered creating an exception based not on a fixed percentage of a provider's interstate revenues, but instead on the relationship between a provider's actual contribution and the amount of its interstate revenues. Under this alternative, a carrier would not contribute in a given quarter if its contribution for the quarter exceeded its interstate end-user telecommunications revenues applicable to that quarter. While this approach would address the equitable and nondiscriminatory requirements of section 254(d), we conclude that it does not meet the specific and predictable requirements as well as the 8 percent rule. If we were to base the international revenues exception on the amount of a provider's contribution in relation to its interstate end-user telecommunications revenues, then the provider's eligibility for the exception would depend on the level of the quarterly contribution factor, which varies from quarter to quarter. Providers with a percentage of interstate end-user telecommunications revenues close to the contribution factor would not know with certainty whether they qualify for the exception until the contribution factor is announced shortly before the beginning of each quarter. Thus, this approach is not as specific and predictable as the 8 percent rule, and we decline to adopt it.

19. We also conclude that the 8 percent rule meets section 254(d)'s requirement that universal service support mechanisms be sufficient. In order to address the court's concerns, any approach that we adopt must necessarily exclude a certain amount of international revenue from the contribution base. The 8 percent rule excludes only slightly more international revenue from the contribution base than would an approach that is tied directly to the level of the quarterly contribution factor. Moreover, the relatively small amount of international revenue excluded from the contribution base by the 8 percent rule should not dramatically affect the level of the quarterly contribution factor

or the ability of providers to meet their contribution obligations. Thus, we conclude that the 8 percent rule will allow us to maintain universal service support mechanisms that are sufficient.

20. *Implementation of Limited International Revenues Exception.* Because providers currently report their interstate and international end-user telecommunications revenues as a combined amount on the Telecommunications Reporting Worksheet (FCC Form 499), the Commission does not have revenue data for contributors that distinguish their interstate and international revenues. Although the worksheet that carriers will submit in April 2000 will be revised to provide for separate reporting of contributors' interstate and international revenues, two potential implementation problems arise in the interim with respect to our adoption of the international revenues exception pending the issuance of a revised Worksheet. First, without revenue data reflecting the amount of international revenues that will be excluded from the contribution base pursuant to the international revenues exception, the Commission cannot accurately calculate the revised contribution factor for the fourth quarter of 1999. Second, without revenue data separately identifying each contributor's interstate and international revenues, USAC cannot determine which contributors qualify for the international revenues exception and, therefore, cannot accurately bill individual contributors. To remedy these problems, this Order: (1) estimates the amount of international revenues that we anticipate will be excluded from the contribution base by operation of the international revenues exception described; and (2) requires each contributor that qualifies for the international revenues exception adopted in this Order to file an amendment to its March 1999 and September 1999 worksheets within 30 days of the effective date of this Order, identifying the amount and percentages of the contributor's interstate and international revenues.

21. The Common Carrier Bureau's Industry Analysis Division has estimated that, as a result of our adoption of the limited international revenues exception, approximately $0.617 billion of international end-user telecommunications revenues will be excluded from the $38.204 billion of interstate and international end-user telecommunications revenues previously reported for the second half of 1998. Thus, we direct that the amount of interstate and international end-user telecommunications revenues reported for July to December 1998 ($38.204 billion), as filed with the Commission by USAC, should be reduced to $37.587 billion when calculating a contribution base using revenue data from that period. In the event that our estimate of the amount of international revenues excluded by operation of the limited international revenues exception proves inaccurate once actual revenue data become available, we direct USAC to adjust future revenue estimates and future contributor bills to correct for any inaccuracy in our estimate.

22. To enable USAC to bill individual carriers, each contributor that qualifies for the international revenues exception adopted in this Order must file with USAC an amendment to its March 1999 Form 457 and September 1999 Form 499–S worksheets within 30 days of the effective date of this Order, identifying the amount and percentages of the contributor's interstate and international revenues. Only a contributor whose interstate end-user telecommunications revenues constituted less than 8 percent of the contributor's combined interstate and international end-user telecommunications revenues in 1998 should submit these forms. Until the Telecommunications Reporting Worksheet (FCC Form 499–A, FCC Form 499–S) can be revised and approved by the Office of Management and Budget (OMB), we conclude that the interim procedure just described will provide a reasonable estimate of the contribution base and allow individual contributors to obtain the benefit of the limited international revenues exception with minimal disruption to USAC's billing, collection, and disbursement operations. A revised worksheet that separately lists contributors' interstate and international revenues will be made available in time for filing of the April 2000 Worksheet (FCC Form 499–A). A contributor that qualifies for the international revenues exception shall continue making its contributions to universal service in accordance with the Commission's current contribution rules regarding the assessment of international revenues until such time as: (1) the contributor files the Form 457 and Form 499–S amendments with USAC, and (2) the contributor has received a bill or reimbursement from USAC in which USAC has adjusted the contributor's payment obligation, effective November 1, 1999, to take into account changes resulting from our adoption of the 8 percent rule.

2. Recovery of Universal Service Contributions by Incumbent Local Exchange Carriers

23. In Texas Office of Public Utility Counsel v. FCC, the court reversed the Commission's decision that incumbent LECs could only recover their universal service contributions through access charges, stating that:

> forcing GTE to recover its universal service contributions from its access charges * * * maintains an implicit subsidy. * * * [R]equiring carriers to recover their contributions from access charges on interstate calls shifts the costs of intrastate universal service to the interstate jurisdiction.
> * * * Because the agency continues to require implicit subsidies for ILECs in violation of a plain, direct statutory command, we reverse its decision to require ILECs to recover universal service contributions from their interstate access charges.

24. The U.S. Court of Appeals for the Eighth Circuit held in *Southwestern Bell Telephone Co.* v. *FCC* that section 254(e) does not preclude the Commission from permitting incumbent LECs to recover universal service contributions through access charges. That court noted that contribution costs are ''real costs of doing business'' that carriers may pass through to customers that use their services. Rather than requiring explicit universal service support, section 254(e) states that such support ''should'' be explicit. Moreover, section 254(e) does not address contributions to the universal service fund, but support flowing from the fund. As the Eighth Circuit observed, ''[t]he flow-through of LEC universal service costs to its IXC customers is akin to the flow-through of IXC universal service costs to its long-distance customers—neither can be categorized as an implicit subsidy in violation of section 254(e).''

25. The Fifth Circuit's analysis of section 254(e) can be harmonized with the Eighth Circuit's decision in Southwestern Bell. We believe that the Fifth Circuit intended to hold only that section 254(e) barred the FCC from requiring incumbent LECs to recover universal service contributions through access charges. The Eighth Circuit, on the other hand, simply held that section 254(e) does not preclude the FCC from permitting incumbent LECs to recover universal service contributions through access charges. Thus, we read the Fifth Circuit decision, consistent with the Eighth Circuit's decision, as permitting incumbent LECs to adopt this method of cost recovery.

26. To comply with the Fifth Circuit's order, we will expand incumbent LECs'

options for recovering their universal service contributions to include an end-user charge. Because incumbent LECs are dominant in the provision of local exchange and exchange access services, we conclude that some regulation of the way in which these carriers may recover their universal service contributions from end-users remains necessary. Competition is not sufficient to constrain their rates and ensure that they remain just and reasonable. We require any such recovery to be equitable and nondiscriminatory. Incumbent LECs will thus be able to recover their contributions through access charges or through end-user charges. To the extent they choose to implement an interstate end-user charge, however, incumbent LECs that are currently recovering their universal service contributions in interstate access charges must make corresponding reductions in their interstate access charges to avoid any double recovery.

3. Elimination of the ''No Disconnect'' Rule

27. Section 54.401(b) of the Commission's rules prohibits carriers eligible for universal service support from disconnecting Lifeline service to consumers that fail to pay toll charges. In light of the court's ruling that the Commission does not have jurisdiction under the Act impose this ''no disconnect'' rule, we amend part 54 of our rules to eliminate that provision.

C. Authority Delegated to the Bureau

28. Pursuant to § 54.711(c) of the Commission's rules, the Bureau has authority to waive, reduce, eliminate, or add to the Commission's universal service reporting requirements. To the extent that the reporting requirements described in this Order require subsequent modification, the Bureau has authority to make such modifications without further Commission action.

IV. Procedural Matters

A. Supplemental Final Regulatory Flexibility Analysis

29. The Regulatory Flexibility Act (RFA) requires that a Regulatory Flexibility Analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' This Supplemental Final Regulatory Flexibility Analysis supplements the Final Regulatory Flexibility Analysis (FRFA) included in the Universal Service Order, only to the extent that changes to that order adopted here require changes in the conclusions reached in the FRFA. As required by section 603 of the Regulatory Flexibility Act, the FRFA was preceded by an Initial Regulatory Flexibility Analysis (IRFA) incorporated in the Notice of Proposed Rulemaking and Order Establishing the Joint Board (NPRM), 61 FR 63778 (December 2, 1996), and an IRFA, prepared in connection with the Recommended Decision, which sought written public comment on the proposals in the NPRM and the Recommended Decision. The Commission has prepared this Supplemental Final Regulatory Flexibility Analysis of the possible significant economic impact this Order might have on small entities, in conformance with the RFA.

1. Need for and Objectives of Rules

30. The decisions and rules adopted in this Order are designed to implement as quickly and effectively as possible the court's July 30, 1999 decision. In formulating these rules, we have been mindful of the impact of our rules on small business entities, particularly regarding their impact on (1) small international providers whose interstate operations represent a modest amount of their combined interstate and international revenues, and (2) small incumbent local exchange carriers that wish to recover their universal service contributions from their end-user customers through an explicit interstate end-user charge.

2. Summary of Significant Issues Raised by the Public Comments to the IRFA

31. The Commission performed an IRFA in connection with both the NPRM and Recommended Decision in this proceeding, which sought written public comment on the proposals in the NPRM and Recommended Decision. In the IRFAs, the Commission sought comment on possible exemptions from the proposed rules for small telecommunications companies and measures to avoid significant economic impact on small entities, as defined by the RFA. No comments in response to the IRFAs, other than those summarized in the *Universal Service Order,* were filed. In response to the FRFA contained in the *Universal Service Order,* RTC argued that the Commission did not satisfy the requirements of the RFA by considering alternatives to the cap on recovery of corporate operations expenses. Those comments were fully addressed in the *Fourth Order on Reconsideration.*

32. No comments or petitions for reconsideration in response to the IRFAs or FRFA, other than those described, were filed and none of the comments filed pertain to the issues raised in the present Order. We have nonetheless addressed small business concerns by giving incumbent LECs greater flexibility in structuring their recovery of universal service contributions and by creating an exception from the contribution requirements for certain providers of international telecommunications services, as described in ''Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.''

3. Description and Estimate of Number of Small Entities to Which the Rules May Apply

33. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the new rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. And finally, ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. In this Order, the

Commission stated that the new rules will affect all providers of interstate telecommunications and interstate telecommunications services. We further describe and estimate the number of small business concerns that may be affected by the rules adopted in this Order.

34. As noted, under the Small Business Act, a ''small business concern'' is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees. We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telecommunications companies that are commonly used under our rules.

35. The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, including the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Carrier Locator* report, derived from filings made in connection with the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 3,604 interstate carriers. These carriers include, *inter alia,* local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

36. We have included small incumbent LECs in this present RFA analysis. As noted, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other non-RFA contexts.

37. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the decisions and rules in this Order.

38. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules in this Order.

39. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, and Resellers.* Neither the Commission nor SBA has developed a definition of small local exchange carriers (LECs), interexchange carriers (IXCs), competitive access providers (CAPs), operator service providers (OSPs), or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, there are 1,410 LECs, 151 IXCs, 129 CAPs, 32 OSPs, and 351 resellers. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,410 small entity LECs or small incumbent LECs, 151 IXCs, 129 CAPs, 32 OSPs, and 351 resellers that may be affected by the decisions and rules in the order and order on reconsideration.

40. *Wireless (Radiotelephone) Carriers.* SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business radiotelephone company is one employing no more than 1,500 persons. The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the decisions and rules in this Order.

41. *Cellular, PCS, SMR and Other Mobile Service Providers.* In an effort to further refine our calculation of the number of radiotelephone companies that may be affected by the rules

adopted herein, we consider the data that we collect annually in connection with the TRS for the subcategories Wireless Telephony (which includes Cellular, PCS, and SMR) and Other Mobile Service Providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to these broad subcategories, so we will utilize the closest applicable definition under SBA rules—which, for both categories, is for telephone companies other than radiotelephone (wireless) companies. To the extent that the Commission has adopted definitions for small entities providing PCS and SMR services. According to our most recent TRS data, 732 companies reported that they are engaged in the provision of Wireless Telephony services and 23 companies reported that they are engaged in the provision of Other Mobile Services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of Wireless Telephony Providers and Other Mobile Service Providers, except as described, that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 732 small entity Wireless Telephony Providers and fewer than 23 small entity Other Mobile Service Providers that might be affected by the decisions and rules in this Order.

42. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added, and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. However, licenses for Blocks C through F have not been awarded fully, therefore there are few, if any, small businesses currently providing PCS services. Based on this information, we estimate that the number of small broadband PCS licenses will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small PCS providers as defined by SBA and the Commissioner's auction rules.

43. *SMR Licensees.* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small entity'' in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than $15 million in the three previous calendar years. The definition of a ''small entity'' in the context of 800 MHz SMR has been approved by the SBA, and approval for the 900 MHz SMR definition has been sought. The rules may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than $15 million. Consequently, we estimate, for purposes of this IRFA, that all of the extended implementation authorizations may be held by small entities, some of which may be affected by the decisions and rules in this Order.

44. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we estimate that the number of geographic area SMR licensees that may be affected by the decisions and rules in the order and order on reconsideration includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. The Commission, however, has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we estimate, for purposes of this IRFA, that all of the licenses may be awarded to small entities, some of which may be affected by the decisions and rules in this Order.

45. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies. According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, if this general ratio continues to 1999 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

46. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order*, 62 FR 16004 (April 3, 1997), we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. 908 licenses were auctioned in 3 different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: one of the Nationwide licenses, 67% of the Regional licenses, and 54% of the EA licenses. As of January 22, 1999, the Commission announced that it was prepared to grant 654 of the Phase II licenses won at auction. A reauction of the remaining, unsold licenses was completed on June 30, 1999, with 16 bidders winning 222 of the Phase II licenses. As a result, we estimate that 16

or fewer of these final winning bidders are small or very small businesses.

47. *Paging.* On June 7, 1999, the Wireless Telecommunications Bureau announced the first in a series of auctions of paging licenses, the first to commence on December 7, 1999. The Bureau has proposed that the first auction be composed of 2,499 licenses. The Commission utilizes a two-tiered definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. A small business is defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million, or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. The SBA has approved this definition. At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. In addition, according to the most recent *Carrier Locator* data, 137 carriers reported that they were engaged in the provision of either paging or messaging services, which are placed together in the data. Because the auction has yet to occur, we do not have data specifying the number of winning bidders that will meet the above small business definition. Also, we will assume that there currently are 137 or fewer small business paging carriers.

48. *Narrowband PCS.* The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

49. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

50. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA definition.

51. *Private Land Mobile Radio (PLMR).* PLMR systems, also known as Private Mobile Radio Service (PMRS) systems, serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The Commission is unable at this time to estimate the number of, if any, small businesses that could be impacted by the new rules. However, the Commission's 1994 Annual Report on PLMRs indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the rules in this context could potentially impact any small U.S. business that chooses to become licensed in this service. On July 21, 1999, the Wireless Telecommunications Bureau requested public comment on whether the licensing of PMRS frequencies in the 800 MHz band for commercial SMR use would serve the public interest.

52. *Fixed Microwave Services.* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, we will utilize the SBA's definition applicable to radiotelephone companies—*i.e.*, an entity with no more than 1,500 persons. We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

53. *Offshore Radiotelephone Service.* This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small entities under the SBA's definition for radiotelephone communications.

54. *Wireless Communications Services.* This service can be used for fixed, mobile, radio location and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees that may be affected by the decisions and rules in this Order includes these eight entities.

55. *Multipoint Distribution Systems (MDS):* The Commission has defined ''small entity'' for the auction of MDS as an entity that, together with its affiliates, has average gross annual revenues that are not more than $40 million for the preceding three calendar years. This definition of a small entity in the context of MDS auctions has been approved by the SBA. The Commission completed its MDS auction in March 1996 for authorizations in 493 basic trading areas (BTAs). Of 67 winning bidders, 61 qualified as small entities.

56. MDS is also heavily encumbered with licensees of stations authorized prior to the auction. The SBA has developed a definition of small entities for pay television services, which

includes all such companies generating $11 million or less in annual receipts. This definition includes multipoint distribution systems, and thus applies to MDS licensees and wireless cable operators which did not participate in the MDS auction. Information available to us indicates that there are 832 of these licensees and operators that do not generate revenue in excess of $11 million annually. Therefore, for purposes of this IRFA, we find there are approximately 892 small MDS providers as defined by the SBA and the Commission's auction rules, some which may be affected by the decisions and rules in this Order.

57. *International Service Providers.* The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC). This definition provides that a small entity is expressed as one with $11 million or less in annual receipts. According to the Census Bureau, there were a total of 848 communications services, NEC in operation in 1992, and a total of 775 had annual receipts of less than $9.999 million. We note that those entities providing only international service will not be affected by our revised rules. We do not, however, have sufficient data to estimate with greater detail those providing both international and interstate services. Consequently, we estimate that there are fewer than 775 small international service entities potentially impacted by our rules.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

58. In this Order, we adopt revisions to Part 54 that are responsive to the court's July 30, 1999 ruling. In response to the court's concern that our assessment rules were unduly burdensome as applied to small providers whose interstate operations represent a modest amount of their combined interstate and international revenues, we modify our rules to create an exception from the contribution requirements for certain providers of international telecommunications services. In doing so, we have asked providers claiming entitlement to this exception to prepare and submit to USAC two short forms amending their two most recently filed Worksheets. Those forms ask contributors claiming entitlement to the exception to separately list their interstate and international revenues. To the extent that this reporting obligation is not unduly burdensome and is adopted in order to establish certain providers' entitlement to an exception from the contribution requirements, we project that this Order will impose no significant new reporting requirements on small carriers.

59. In light of the court's determination that the Commission may not require incumbent LECs to recover the cost of their universal service contributions through interstate access charges, we give incumbent LECs flexibility in the manner in which they recover their universal service contributions. For those that elect to continue recovering their contributions through interstate access charges, no additional requirements are imposed by this Order. For those that elect to recover their contributions through an explicit end-user charge, this Order requires such carriers to take steps to make corresponding reductions in their interstate access charges to avoid double recovery.

5. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

60. In this Order, we have taken several steps to minimize the economic impact of our Part 54 rule changes on all carriers, including small carriers. For example, in response to the court's concern that our contribution requirement, as applied to certain small providers, was unduly burdensome, we have sought to reduce the contribution obligation of providers, many of which are small entities, whose interstate operations represent a modest amount of their combined interstate and international revenues. We take this action in response to the court's concerns and to help primarily international providers with a small portion of interstate business to compete on a more equal footing with international providers that, by virtue of their status as exclusively international carriers, are not subject to the universal service contribution requirements.

61. In light of the court's determination that the Commission may not require incumbent LECs to recover the cost of their universal service contributions through interstate access charges, we give incumbent LECs flexibility in the manner in which they recover their universal service contributions. For those that elect to continue recovering their contributions through interstate access charges, no additional requirements are imposed by this Order. For those that elect to recover their contributions through an explicit end-user charge, this Order requires such carries to take steps to make corresponding reductions in their interstate access charges to avoid double recovery. Given that the compliance obligations associated with transitioning to an end-user method of recovery for incumbent LECs are in large measure voluntary, and insofar as carriers, including small carriers, are given no deadlines for implementing such changes, we conclude the compliance requirements adopted in this Order will not be unduly burdensome on small carriers.

6. Report to Congress

62. The Commission will send a copy of this Order, including the Supplemental Final Regulatory Flexibility Analysis, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. A summary of the rules adopted in this Order and this Supplemental Final Regulatory Flexibility Analysis will also be published in the **Federal Register**, and will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

B. Effective Date of Final Rules

63. In this Order, the Commission amends its rules to implement the court's July 30, 1999 mandate with respect to the assessment and recovery of universal service contributions. Consistent with the court's September 28, 1999 rulings, we make this Order and the rule changes adopted herein effective on November 1, 1999. The court's directive that its July 30, 1999 mandate will issue on November 1, 1999 provides good cause to depart in the manner described from the general requirement of 5 U.S.C. 553(d) that final rules take effect not less than thirty (30) days after their publication in the **Federal Register**. The information collections contained in this Order was approved by OMB under control number 3060–0907.

V. Ordering Clauses

64. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1–4, 201, 205, 218–220, 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 218–220, 254, 303(r), 403, 410, the Sixteenth Order on Reconsideration in CC Docket No. 96–45 is adopted.

65. The Eighth Report and Order in CC Docket No. 96–45 is adopted.

65. The Sixth Report and Order in CC Docket No. 96–262 is adopted.

67. Parts 54 and 69 of the Commission's Rules, 47 CFR Parts 54

and 69, are amended, effective November 1, 1999.

68. The authority is delegated to the Chief of the Common Carrier Bureau pursuant to 47 CFR 0.291 and 54.711(c) to modify, or require the filing of, any forms that are necessary to implement the decisions and rules adopted in this Order and that are required to ensure the sound and efficient functioning of the universal service support mechanisms.

69. The Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Order, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 54

Universal service.

47 CFR Part 69

Communications common carrier.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Parts 54 and 69 of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 54—UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 214, and 254 unless otherwise noted.

§ 54.401 [Amended].

2. In § 54.401, remove and reserve paragraph (b).

3. Amend § 54.706 by revising paragraphs (b) and (c) and adding paragraph (d) to read as follows:

§ 54.706 Contributions.

* * * * *

(b) Except as provided in paragraph (c) of this section, every telecommunications carrier that provides interstate telecommunications services, every provider of interstate telecommunications that offers telecommunications for a fee on a non-common carrier basis, and every payphone provider that is an aggregator shall contribute to the federal universal service support mechanisms on the basis of its interstate and international end-user telecommunications revenues.

(c) Any entity required to contribute to the federal universal service support mechanisms whose interstate end-user telecommunications revenues comprise less than 8 percent of its combined interstate and international end-user telecommunications revenues shall contribute to the federal universal service support mechanisms for high cost areas, low-income consumers, schools and libraries, and rural health care providers based only on such entity's interstate end-user telecommunications revenues. For purposes of this paragraph, an ''entity'' shall refer to the entity that is subject to the universal service reporting requirements in 47 CFR 54.711 and shall include all of that entity's affiliated providers of telecommunications services.

(d) Entities providing open video systems (OVS), cable leased access, or direct broadcast satellite (DBS) services are not required to contribute on the basis of revenues derived from those services. The following entities will not be required to contribute to universal service: non-profit health care providers; broadcasters; systems integrators that derive less than five percent of their systems integration revenues from the resale of telecommunications.

4. Amend § 54.709 by revising paragraph (a) to read as follows:

§ 54.709 Computations of required contributions to universal service support mechanisms.

(a) Contributions to the universal service support mechanisms shall be based on contributors' end-user telecommunications revenues and a contribution factor determined quarterly by the Commission.

(1) For funding the federal universal service support mechanisms, the subject revenues will be contributors' interstate and international revenues derived from domestic end users for telecommunications or telecommunications services.

(2) The quarterly universal service contribution factor shall be determined by the Commission based on the ratio of total projected quarterly expenses of the universal service support mechanisms to total end-user interstate and international telecommunications revenues. The Commission shall approve the Administrator's quarterly projected costs of the universal service support mechanisms, taking into account demand for support and administrative expenses. The total subject revenues shall be compiled by the Administrator based on information contained in the Telecommunications Reporting Worksheets described in § 54.711(a).

(3) Total projected expenses for the federal universal service support mechanisms for each quarter must be approved by the Commission before they are used to calculate the quarterly contribution factor and individual contributions. For each quarter, the Administrator must submit its projections of demand for the federal universal service support mechanisms for high-cost areas, low-income consumers, schools and libraries, and rural health care providers, respectively, and the basis for those projections, to the Commission and the Common Carrier Bureau at least sixty (60) calendar days prior to the start of that quarter. For each quarter, the Administrator must submit its projections of administrative expenses for the high-cost mechanism, the low-income mechanism, the schools and libraries mechanism and the rural health care mechanism and the basis for those projections to the Commission and the Common Carrier Bureau at least sixty (60) calendar days prior to the start of that quarter. Based on data submitted to the Administrator on the Telecommunications Reporting Worksheets, the Administrator must submit the total contribution base to the Common Carrier Bureau at least sixty (60) days before the start of each quarter. The projections of demand and administrative expenses and the contribution factor shall be announced by the Commission in a public notice and shall be made available on the Commission's website. The Commission reserves the right to set projections of demand and administrative expenses at amounts that the Commission determines will serve the public interest at any time within the fourteen-day period following release of the Commission's public notice. If the Commission takes no action within fourteen (14) days of the date of release of the public notice announcing the projections of demand and administrative expenses, the projections of demand and administrative expenses, and the contribution factor shall be deemed approved by the Commission. Except as provided in § 54.706(c), the Administrator shall apply the quarterly contribution factor, once approved by the Commission, to contributors' interstate and international end-user telecommunications revenues to calculate the amount of individual contributions.

* * * * *

PART 69—ACCESS CHARGES

5. The authority citation for part 69 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403 unless otherwise noted.

6. Amend § 69.4 by adding paragraph (d) to read as follows:

§ 69.4 Charges to be filed.

* * * * *

(d) Recovery of Contributions to the Universal Service Support Mechanisms by Incumbent Local Exchange Carriers.

(1) Incumbent local exchange carriers may recover their contributions to the universal service support mechanisms through carriers' carrier charges.

(i) Price cap incumbent local exchange carriers may do so by exogenously adjusting the price cap indices of each basket on the basis of relative end-user revenues.

(ii) Non-price cap incumbent local exchange carriers may do so by applying a factor to their carrier common line charge revenue requirements.

(2)(i) In lieu of the carriers' carrier charges described in paragraph (d)(1), incumbent local exchange carriers may recover their contributions to the universal service support mechanisms through explicit, interstate, end-user charges that are equitable and nondiscriminatory.

(ii) To the extent that incumbent local exchange carriers choose to implement explicit, interstate, end-user charges to recover their contributions to the universal service support mechanisms, they must make corresponding reductions in their access charges to avoid any double recovery.

§ 69.5 [Amended]

7. In § 69.5, remove and reserve paragraph (d).

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BILLING CODE 6712–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990527146–9146–01; I.D. 110199B]

Fisheries of the Northeastern United States; Atlantic Sea Scallop and Northeast Multispecies Fisheries; Georges Bank Sea Scallop Exemption Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Termination of the Georges Bank Sea Scallop Exemption Program.

SUMMARY: NMFS issues this announcement that the Regional Administrator, Northeast Regional Office, NMFS (Regional Administrator), has determined that the 387 metric tons (MT) of the total allowable catch (TAC) of yellowtail flounder allowed in the Georges Bank Sea Scallop Exemption Program (Exemption Program) has been projected to be caught as of 0001 hours (local time), November 2, 1999, and entry into the Exemption Program is terminated. Vessels may not declare and begin an Exemption Program trip after midnight (local time), November 2, 1999. Vessels enrolled in the Exemption Program will be required to complete their trip by November 12, 1999 or when the vessel harvests 10,000 lb (4,536.0 kg) of sea scallop meats, whichever comes first. The entire exemption area remains closed to vessels not enrolled in the Exemption Program until midnight (local time), November 12, 1999.

DATES: The Georges Bank Sea Scallop Exemption Program is terminated on November 2, 1999.

FOR FURTHER INFORMATION CONTACT: Walter J. Gardiner, Fishery Management Specialist, (978) 281–9326.

SUPPLEMENTARY INFORMATION: On June 10, 1999, NMFS published a final rule to implement measures contained in Framework Adjustment 11 to the Atlantic Sea Scallop Fishery Management Plan (FMP) and Framework Adjustment 29 to the Northeast Multispecies FMP (64 FR 31144). This rule, which allows sea scallop dredge vessels access to the Exemption Program area contains a provision to ensure that the yellowtail flounder bycatch/incidental catch remains within the 387 MT total allowable catch (TAC) level established for this fishery. Section 648.58(f)(2) specifies that this mechanism is triggered when the Regional Administrator projects that 387 MT will be caught. Further, this section stipulates that NMFS will publish notification in the **Federal Register** informing the public of the date of the termination of the Exemption Program. Based on an analysis of information obtained through vessel observer reports, the Regional Administrator has determined that 387 MT was reached on November 2, 1999. Vessels may not declare and begin an Exemption Program trip after midnight (local time), November 2, 1999. Therefore, vessels will no longer be allowed to elect to fish in the Exemption Program through their Vessel Monitoring System units after midnight (local time), November 2, 1999. Vessels enrolled in the Exemption Program will be required to complete their trip by November 12, 1999, or when the vessel harvests 10,000 lb (4,536.0 kg) of sea scallop meats, whichever comes first. The entire exemption area remains closed to vessels not enrolled in the Exemption Program until midnight (local time), November 12, 1999.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 2, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–29025 Filed 11–2–99; 4:42 pm]

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Proposed Rules

Federal Register
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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 102, 103, 104, 106, 107, 109, 110, 114, and 116

[Notice 1999—24]

Use of the Internet for Campaign Activity

AGENCY: Federal Election Commission.

ACTION: Notice of inquiry and request for comments.

SUMMARY: The Commission is currently examining the issues raised by the use of the Internet to conduct campaign activity. The Commission is conducting this review in order to assess the applicability of the Federal Election Campaign Act and the Commission's current regulations to campaign activity conducted using this medium. In order to assist in its review, the Commission invites comments on the application of the Act and the current regulations to Internet campaign activity. The Commission will use the comments received to determine whether or not to issue a Notice of Proposed Rulemaking (''NPRM''), which may include proposed changes to its regulations. An NPRM would seek further comment on any proposed revisions to the Commission's rules. The Commission has made no final decisions regarding the issues discussed in this notice, and may ultimately decide to take no action. Further information is provided in the supplementary information that follows.

DATES: Comments must be submitted on or before January 4, 2000.

ADDRESSES: All comments should be addressed to Rosemary C. Smith, Acting Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463. Faxed comments should be sent to (202) 219–3923, with printed copy follow up. Electronic mail comments should be sent to internetnoi@fec.gov, and should include the full name, electronic mail address and postal service address of the commenter. Additional information on electronic submission is provided below.

FOR FURTHER INFORMATION CONTACT: Rosemary C. Smith, Acting Assistant General Counsel, or Paul Sanford, Staff Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: In recent years, there has been a dramatic increase in the use of the Internet to conduct campaign activity related to federal elections. Candidates, parties and political action committees (''PACs'') have apparently concluded that the Internet is a powerful campaign tool with the potential to significantly influence the outcome of federal elections. Individuals and other organizations have also used the Internet to participate directly in election campaigns, taking advantage of the medium's capacity to reach large numbers of people at very little cost.

The dramatic increase in campaign activity conducted on the Internet raises a number of issues regarding the applicability of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 *et seq.* (''FECA'' or ''the Act''). The Act requires candidates, parties and PACs to file disclosure reports regarding their election-related activity, and also imposes restrictions and limitations on the amounts that may be contributed to candidates, parties and PACs by individuals, corporations, labor organizations and other committees.

Although the FECA was enacted long before widespread use of the Internet, and has, in some instances, been narrowed by court decisions, *see e.g., Buckley* v. *Valeo,* 424 U.S. 1 (1976), *FEC* v. *Massachusetts Citizens for Life,* 479 U.S. 238 (1986), it remains broad enough to potentially encompass some election-related activity conducted on the Internet. For example, section 431(8) states that the term ''contribution'' includes ''any gift, subscription, loan, advance or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.'' 2 U.S.C. 431(8)(A)(i), 11 CFR 100.7(a)(1). The Commission has historically interpreted the phrase ''anything of value'' in section 431(8)(A)(i) to include in-kind contributions, i.e., the provision of goods or services without charge or at less than the usual or normal charge. 11 CFR 100.7(a)(1)(iii). The term ''contribution'' also includes ''the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.'' 2 U.S.C. 431(8)(A)(ii), 11 CFR 100.7(a)(3).

Similarly, section 431(9) states that the term ''expenditure'' includes ''any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office.'' 2 U.S.C. 431(9)(A), 11 CFR 100.8(a). In-kind contributions are also expenditures. 11 CFR 100.8(a)(1)(iv).

Section 441b of the Act generally prohibits contributions and expenditures by corporations and labor organizations, and states that, for the purposes of this prohibition, the term ''contribution or expenditure'' includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party in connection with any election to any federal office. *Id.*

Thus, the Act, and in particular, the contribution and expenditure definitions, are at least facially applicable to a wide range of activity, including some activity that could be conducted on the Internet. However, the Act also contains a number of exemptions from the contribution and expenditure definitions. For example, the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee is not a contribution. 2 U.S.C. 431(8)(B)(i). The Act also excludes costs incurred by state and local party committees for (1) slate cards and sample ballots, (2) campaign materials (such as pins, bumper stickers, brochures, yard signs, etc.) used in connection with volunteer activities, and (3) voter registration and get-out-the-vote activities on behalf of Presidential and Vice Presidential nominees, under certain circumstances. 2 U.S.C. 431(8)(B)(v), (x), (xii), (9)(B)(iv), (viii), (ix).

News stories, commentaries and editorials distributed by a broadcasting station, newspaper, magazine or other periodical publication are not expenditures, unless the broadcaster or publisher is owned or controlled by a candidate, political committee or political party. 2 U.S.C. 431(9)(B)(i). In addition, communications on any subject between a corporation and its stockholders, executive and administrative personnel, and their families, and between a labor organization, its members and their families, are not expenditures under the Act. 2 U.S.C. 441b(b)(2)(A). Costs incurred by publicly funded Presidential primary candidates ''in connection with the solicitation of contributions'' are also exempt from the expenditure definition. 2 U.S.C. 431(9)(B)(vi).

Although there are no minimum dollar thresholds for something of value to be considered a contribution or expenditure, the Act excludes activity that falls below certain dollar thresholds from some of the reporting requirements. For example, individuals that make independent expenditures are not required to submit disclosure reports unless their expenditures aggregate in excess of $250 during a calendar year. 2 U.S.C. 434(c). Similarly, organizations are not required to register and report as political committees until their contributions or expenditures aggregate in excess of $1000 in a calendar year. 2 U.S.C. § 431(4). Political committees are only required to provide the identification (name, mailing address, occupation, name of employer, 2 U.S.C. 431(13)) of those contributors whose contributions aggregate in excess of $200 in a calendar year. 2 U.S.C. 434(b)(3)(A).

As the agency responsible for administering the Federal Election Campaign Act, the Federal Election Commission (''FEC'' or ''Commission''), must determine the extent to which the Act applies to campaign activity conducted on the Internet. In an effort to begin the process of making this determination, the Commission requests comments on the application of the Act and the Commission's current regulations to Internet campaign activity.

One threshold question upon which the Commission invites comments is whether campaign activity conducted on the Internet should be subject to the Act and the Commission's regulations at all. Are Internet campaign activities analogous to campaign activities conducted in other contexts, or do they differ to such a degree as to require different rules?

In addition, commenters are encouraged to discuss aspects of the Commission's current regulations that may affect or inhibit the use of the Internet in ways that may not have been anticipated or intended when the regulations were promulgated, and which may now be inappropriate when applied to Internet activity. Commenters are also encouraged to identify and discuss provisions of the FECA or the regulations the application of which is unclear in the context of political activity conducted on the Internet.

Several significant issues relating to the use of the Internet are discussed in detail below. Comments are also welcome on any other Internet-related issues that should be addressed in the regulations.

Internet Activities as Contributions or Expenditures

1. Introduction

The threshold question raised when the Internet is used for activity relating to federal candidates and elections is whether that activity should be treated as a contribution or an expenditure under the Act. If so, under what circumstances? The contribution and expenditure definitions are summarized above. The Commission invites general comments on the application of these definitions to candidate and election-related activity conducted on the Internet. The Commission is also interested in comments on the issues raised by these definitions in the particular situations described below.

2. Candidate Web Sites

Increasing numbers of candidates are establishing web sites to support their campaigns. The most basic question raised is how the candidate's committee should treat costs associated with establishing a campaign web site. Are these costs expenditures under the Act? Or, should they be treated as some other type of committee disbursement?

The Commission is also interested in comments on several specific issues that arise in relation to hyperlinks on candidate web sites. A hyperlink is an electronic link to another web site. If a candidate's site contains a hyperlink to the site of another candidate or a political party, should that link be treated as a contribution from the candidate who operates the originating site to the linked candidate or party committee? If so, how should the value of that contribution be determined? When does that contribution occur? If the link remains on the site for an extended period, does the contribution occur in each reporting period during which it remains on the site? When should it be reported? (Reporting issues will be discussed more extensively below.)

What if the candidate's web site contains a link to the site of a vendor that sells items such as pins, T-shirts, bumper stickers, etc., that express support for the candidate? In this situation, the link serves as a form of advertising for the vendor. Are there circumstances under which this would raise issues under the FECA? What if the vendor is a corporation, and is paying the campaign to provide the link? Would this payment be a contribution, or should the committee treat it as a permissible ''other receipt?'' Is it a contribution only if the vendor pays more than the usual and normal charge for the link?

3. Web Sites of Publicly Funded Candidates

The Commission invites comments on whether there are special considerations involving web sites established by Presidential candidates who accept public funding under the Presidential Election Campaign Fund Act, 26 U.S.C. 9001 *et seq.*, or the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 *et seq.* What issues arise when publicly funded Presidential candidates use the Internet to promote their candidacies?

For example, the Commission recently reversed a long-standing policy to allow for matching of credit card contributions received by Presidential primary candidates via the Internet. 64 FR 32,394 (June 17, 1999). This raises an issue regarding solicitation costs incurred by publicly funded candidates.

Under 2 U.S.C. 431(9)(B)(vi) and 11 CFR 100.8(b)(21), costs incurred by publicly funded Presidential primary candidates ''in connection with the solicitation of contributions'' are not expenditures under the Act. Similarly, solicitation costs incurred by publicly funded general election candidates are not expenditures if contributions are being solicited to make up for deficiencies in amounts received from Presidential Election Campaign Fund. *Id.* As a result, these costs do not count toward the expenditure limits set out in section 441a(b). *See* 2 U.S.C. 431(9)(B)(vi), 26 U.S.C. 9003(b)(1), 9033(b)(1). If a publicly funded candidate uses its web site to solicit contributions, should a portion of the cost of establishing and maintaining the site be exempt from the definition of expenditure under this provision? If so, how should the exempt amount be determined?

The Commission invites comments on this issue and any other issues raised by the use of the Internet by publicly funded candidates.

4. Web sites created by individuals

a. Text and other materials

Many web sites created by individuals contain references to candidates and political parties. Some sites, often referred to as ''fan sites,'' are devoted entirely to urging support for or opposition to one or more candidates. In other situations, only a portion of an individual's web site might be devoted to candidate advocacy.

The FECA distinguishes between activities conducted by individuals in cooperation or consultation with a candidate, and activities undertaken independently of a candidate. Generally, if an individual conducts campaign activity in cooperation or consultation with a candidate, the cost of that activity is an in-kind contribution. 2 U.S.C. 431(8)(A)(ii), 431(17). An individual may make no more than $1000 in contributions to a candidate per election. 2 U.S.C. 441a(a)(1)(A). In addition, the receipt of in-kind contributions must be reported by the candidate. 2 U.S.C. 434(b), 11 CFR 104.3(a)(4)(i).

In contrast, if an individual conducts activity ''without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate,'' that activity is not a contribution. However, if the activity expressly advocates the election or defeat of a candidate, the expenses incurred in that activity are an independent expenditure. 2 U.S.C. 431(17). Although individuals may make unlimited independent expenditures on behalf of a candidate, ''every person (other than a political committee) who makes independent expenditures in an aggregate amount or value in excess of $250 during a calendar year'' must file disclosure reports. 2 U.S.C. 434(c).

How should these definitions be applied to web sites created by individuals that contain references to candidates or political parties? Are costs incurred by individuals in posting materials relating to candidates or parties covered by the FECA? If so, how should the value of the individual's contribution or independent expenditure be determined? What costs should be taken into account? Should the individual posting the materials be required to treat a portion of the initial cost of the computer hardware used to operate the web site as part of the contribution or expenditure? Should the individual be required to treat any other expenses, such as the costs of software purchased to create the site and fees paid to maintain it, as a contribution or expenditure?

What if the site contains both candidate or party-related materials and other unrelated materials? Should a portion of the costs of the site be treated as a contribution or expenditure? What if an individual who already owns a computer and already has access to the Internet posts candidate or party-related materials on the Internet? An individual in this situation may incur little or no additional cost in posting these materials. Does this mean that no contribution or expenditure has occurred?

With regard to the issue of whether an individual's Internet activities should be treated as an in-kind contribution or independent expenditure, 2 U.S.C. 431(17) states that ''[t]he term 'independent expenditure' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.'' What types of contacts between an individual and a candidate should be regarded as ''cooperation or consultation,'' often referred to as ''coordination,'' with the candidate within the meaning of this section? Should the types of contact considered coordination with a candidate be different for Internet activities than for activities that take place in other contexts? The Commission is currently engaged in a rulemaking on the issue of coordination with a candidate, and has published two Notices of Proposed Rulemaking seeking comments on this issue. 63 FR 69,523 (Dec. 16, 1998), 62 FR 24,367 (May 5, 1997). Two recent court decisions also discussed the concept of coordination. *Federal Election Commission* v. *Christian Coalition,* 52 F. Supp. 2d (D.D.C. 1999), *Federal Election Commission* v. *Public Citizen,* 1999 WL 731056 (N.D.Ga. 1999). *See also, Clifton* v. *Federal Election Commission,* 114 F.3d 1309 (1st Cir. 1997) *cert. denied* 118 S. Ct. 1036 (1998), *Colorado Republican Federal Campaign Committee* v. *FEC,* 518 U.S. 604 (1996). Comments are invited on how coordination should be defined in the context of campaign activity conducted on the Internet.

How should the regulations address the republication of candidate-generated materials on web sites created by individuals? For example, a visitor to a candidate's web site might download files known as ''banners'' that can be posted like electronic bumper stickers on the visitor's own site. In other cases, a visitor might download textual materials, such as speeches or position papers, and make these materials available on his or her own site. Ordinarily, the republication of campaign materials prepared by the candidate would be an in-kind contribution. 2 U.S.C. 441a(a)(7)(B), 11 CFR 109.1(d)(1). Should this rule apply to republication of materials on the Internet? If so, how should the in-kind contribution be valued for FECA purposes? Or, should the Commission create an exception to this rule for the republication of materials on the Internet, since the marginal cost to the individual of adding a banner or other downloaded material to his or her web site is near zero?

If an individual posts candidate-related materials on the Internet without cooperation or consultation with the candidate, the question raised is whether the candidate-related content should be treated as an independent expenditure. Generally, a communication must contain express advocacy in order to be an independent expenditure. 2 U.S.C. 431(17). How should this test be applied to the contents of a web site? Should the test be applied to the site as a whole, or should it be applied separately to different areas of the site?

b. Hyperlinks

Some web sites created by individuals contain hyperlinks to a candidate's site or to the site of another political committee. Under what circumstances should posting a hyperlink be treated as a contribution or independent expenditure?

A hyperlink on an individual's web site may have value to the linked candidate, since the link will inevitably steer visitors from the individual's site to the candidate's site. If the individual has been in contact with the campaign and has agreed to provide the link at no charge or less than the usual and normal charge, the link could be regarded as an in-kind contribution. On the other hand, the costs of providing the link are often negligible or nonexistent. In addition, the practice in some areas of the Internet industry may be to place no value on these links. Thus, the usual and normal charge for providing a link may be zero.

How widespread is the practice of providing free links? Should the result be that no contribution or expenditure occurs when an individual posts a hyperlink to a candidate or party web site?

If the individual that posts the link does so without any consultation or coordination with the linked candidate's campaign, the link would not be a contribution to the candidate's campaign. In these circumstances, the issue is whether the link should be treated as an independent expenditure. Generally, a communication must contain express advocacy in order to be an independent expenditure. 2 U.S.C. 431(17). Should the express advocacy test be applied to the text of the hyperlink itself, or to the contents of the candidate's site? Would a hyperlink that appears as ''JonesMiller2000'' be express advocacy? What if the text of the hyperlink does not constitute express advocacy, but the linked site contains express advocacy?

Assuming that the text of the link contains express advocacy, how should the value of the independent expenditure be determined? As explained above regarding possible contributions, the owner of the site may incur little or no additional cost in posting the link. Thus, although the link might fall within the definition of ''independent expenditure,'' it may fall below the $250 reporting threshold in 2 U.S.C. 434(c). Should the fact that the cost of the link is incremental relieve the individual of his or her reporting obligation?

c. Web Sites Created by Campaign Volunteers

The Commission invites comments on the extent to which Internet services provided by volunteers should be covered by the volunteer exemption in section 431(8)(B)(ii) of the Act. Section 431(8)(B)(ii) exempts ''the use of real or personal property * * * voluntarily provided by an individual to any candidate or any political committee of a political party in rendering voluntary personal services on the individual's residential premises.'' Are Internet services covered by this section?

d. Disclaimers

Section 441d of the FECA states that ''[w]henever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising,'' the communication must contain a disclaimer statement. *See also* 11 CFR 110.11. Generally, this statement must indicate who paid for the advertisement and whether it was authorized by a candidate or candidate's committee. If so, the candidate or committee must also be identified.

In Advisory Opinion 1998–22, an independent voter sought guidance on the application of the disclaimer requirement to a web site that urged the election of a candidate and the defeat of that candidate's opponent. The Commission noted its conclusion in previous advisory opinions that, because of the Internet's general availability, a web site would be considered general public political advertising. Since the site expressly advocated the election and defeat of candidates, it was an independent expenditure that required a disclaimer under section 441d. *See also* Advisory Opinions 1995–9 and 1995–35.

The Commission is interested in comments on the conclusion reached in Advisory Opinion 1998–22, and on the application of the disclaimer requirement to the Internet. Should web sites created and maintained by individuals be considered general public political advertising within the meaning of section 441d? Internet users generally have to take the affirmative step of directing their browsers to a web site in order to view the contents of that site. In contrast, individuals are often exposed to broadcast messages, newspaper advertisements and direct mail involuntarily, without any deliberate action on their part. Should web sites be treated differently than newspapers and broadcast stations for this reason? The Commission invites comments on this issue.

5. Nonconnected Committees and Other Unincorporated Organizations

Since nonconnected political committees (other than multicandidate committees) and other unincorporated organizations are treated the same as individuals under the FECA, many of the same issues arise when these entities use the Internet for candidate-related activity. The Commission invites commenters to discuss the issues raised above as they apply to these entities.

The Commission is also interested in comments on the circumstances under which the inclusion of a hyperlink on the web site of a nonconnected committee or other unincorporated organization should be treated as ''nonpartisan activity designed to encourage individuals to vote or to register to vote'' under section 431(9)(B)(ii). In Advisory Opinion 1999–7, the Commission responded to a inquiry from a state government agency that posted hyperlinks to candidates on its web site. The Commission concluded that providing information about all ballot-qualified candidates in a nonpartisan manner without first attempting to determine recipients' candidate or party preferences falls within section 431(9)(B)(ii) and 11 CFR 100.8(b)(3). Section 100.8(b)(3) states that ''[a]ny cost incurred for activity designed to encourage individuals to register to vote or to vote is not an expenditure if no effort is or has been made to determine the party or candidate preference of individuals before encouraging them to register to vote or to vote.''

Should the Commission revise the regulations to specifically exclude hyperlinks posted in this manner from the definition of ''expenditure?'' In its opinion, the Commission noted that the state agency's site already included candidate mailing addresses and telephone numbers, and concluded that ''[t]he addition of campaign web addresses in the form of hyperlinks does not change this analysis.'' Should hyperlinks be treated as the equivalent of campaign mailing addresses in all circumstances?

Commenters are also welcome to raise any other issues relating to the use of the Internet by nonconnected committees and other unincorporated organizations.

6. Corporations and Labor Organizations

a. Communications

Many corporations and labor organizations operate web sites to communicate with the general public. Section 441b of the Act prohibits corporations and labor organizations from making contributions or expenditures in connection with federal elections. Thus, the Act generally prohibits these entities from using their web sites to assist or advocate on behalf of any federal candidate.

The question raised is under what circumstances should a candidate or election-related communication on a corporate or labor organization be treated as a prohibited contribution or independent expenditure? If the election-related communication is in the form of a hyperlink to the web site of a candidate or party committee, the issues that arise are similar to those discussed in section 4(b), above, regarding hyperlinks posted on an individual's web site. The Commission invites comments on these issues, as

they arise in the context of web sites operated by corporations and labor organizations.

The FECA also contains a number of exceptions from the contribution and expenditure definitions that enable a corporation or labor organization to engage in certain election-related activity without violating the Act. For example, the Act exempts ''communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject.'' 2 U.S.C. 441b(b)(2)(A). The Commission's regulations refer to these groups as the ''restricted class'' of a corporation or labor organization. 11 CFR 114.1(j).

Section 114.4(c) of the regulations also contains a series of exceptions that allow corporations and labor organizations to distribute certain candidate and election-related materials to the general public without violating section 441b. Under this section, a corporation or labor organization may make registration and get-out-the vote communications to the general public, provided that: (1) They do not expressly advocate the election or defeat of any clearly identified candidate or candidates of a clearly identified political party, and (2) they do not coordinate their efforts with any candidate or political party. 11 CFR 114.4(c)(2). Similarly, a corporation or labor organization may also distribute officially-produced registration or voting information, official registration-by-mail forms, and absentee ballots, provided the corporation or labor organization does not expressly advocate, does not coordinate, and does not encourage registration with any particular political party. 11 CFR 114.4(c)(3).

A corporation or labor organization may also prepare and distribute the voting records of Members of Congress, provided that the voting record and all communications distributed with it do not expressly advocate, and that decisions on content and distribution of the record are not coordinated with any candidate, group of candidates or political party. 11 CFR 114.4(c)(4). *But see Clifton* v. *Federal Election Commission,* 114 F.3d 1309 (1st Cir. 1997) *cert. denied* 118 S. Ct. 1036 (1998). A corporation or labor organization may also prepare and distribute voter guides consisting of two or more candidates' positions on campaign issues under certain conditions set out in the section 114.4(c)(5). Finally, the rules allow a corporation or labor organization to endorse a candidate and announce the endorsement to the general public through a press release and press conference, so long as the press release and notice of the press conference are distributed only to the representatives of the news media that the corporation or labor organization customarily contacts when issuing nonpolitical press releases or holding press conferences for other purposes. 11 CFR 114.4(c)(6).

The Commission invites comments on the issues raised by corporate and labor organization use of the Internet for communication of candidate and election-related information. One threshold issue is whether, and under what circumstances, communication via the Internet should be regarded as communication to the general public, and when it should be treated as communication to a more limited audience. Advisory Opinion 1997–16 involved, *inter alia*, a corporate endorsement posted on the corporation's web site. The Commission concluded that communication of the endorsement via the web site would, in effect, be communication with the general public for purposes of section 441b, unless access was limited to members of the restricted class using a password or similar method. Should the Commission incorporate this interpretation into the regulations? Under what circumstances should the Commission treat information posted on a web site as communication to the restricted class? Under what circumstances should it be treated as distribution to the general public?

If the web site is treated as communication to the general public, under what circumstances should a candidate or election-related communication on a corporate or labor organization web site be treated as a prohibited contribution or independent expenditure? If the election-related communication is in the form of a hyperlink to the web site of a candidate or party committee, the issues that arise are similar to those discussed in section 4(b), above, regarding hyperlinks posted on an individual's web site. The Commission invites comments on these issues, as they arise in the context of web sites operated by corporations and labor organizations.

With regard to the types of communication permitted under section 114.4(c) of the regulations, what special issues arise? How does the use of the Internet to distribute voter guides, voting records, absentee ballots or other registration or voting information impact the current regulations? Are there aspects of these regulations that should be revised?

For example, the Commission is interested in comments on several issues that arise within the specific context of endorsements. As explained above, the rules allow a corporation or labor organization to announce an endorsement to the general public through a press release and press conference, so long as distribution of the press release and notice of the press conference is limited to those media representatives that the organization ordinarily contacts when issuing press releases or holding press conferences. 11 CFR 114.4(c)(6). Should a corporation or labor organization that routinely posts press releases on the Internet be allowed to post a press release announcing a candidate endorsement? Would it matter if the corporation or labor organization posts the endorsement release more prominently than it posts other press releases? What if the release received no special prominence or treatment? Or, should the endorsement be made accessible only to members of the restricted class and other employees?

The Commission invites comments on these issues, and any other issues raised by corporate and labor organization communication via the Internet.

b. Internet Services as In-kind Contributions

Some corporations are in the business of providing Internet-related services, such as Internet access, web site creation and maintenance, technical support, etc. The Commission is interested in comments on whether, and under what circumstances, the costs of Internet-related services should be treated as in-kind contributions.

For example, in Advisory Opinion 1996–2, a corporation that provided Internet services and other on-line information services proposed to provide free member accounts to federal candidates on a nonpartisan basis, and asked whether these accounts would be prohibited in-kind contributions under the Act. The Commission concluded that the accounts would be in-kind contributions unless the corporation could show that it provided the accounts to nonpolitical customers in the ordinary course of business and on the same terms and conditions, *i.e.*, the ''usual and normal charge.'' The Commission also said that even if the corporation could show that it provided free accounts in the ordinary course of business, the promotional value derived by the vendor in the form of prestige, goodwill, and increased usage by other members did not constitute adequate consideration to satisfy the ''usual and normal charge'' requirement.

The Commission invites comments on whether this conclusion should be revised or incorporated into the regulations, and on whether there are circumstances under which the provision of Internet services at less than the usual and normal charge should not be regarded as a contribution or expenditure.

c. Use of Corporate Facilities

Section 114.9 of the regulations places limits on the extent to which the stockholders and employees of a corporation, or the officials, members and employees of a labor organization, may make use of the facilities of the corporation or labor organization for individual volunteer activities in connection with federal elections. Generally, the rule allows occasional, isolated or incidental use of the facilities, and requires users to reimburse the corporation or labor organization only to the extent that the corporation or labor organization's overhead costs are increased. The rule provides additional guidance as to what will be considered occasional, isolated or incidental use in particular situations.

The Commission is interested in comments on the application of this rule to the use of corporate or labor organization facilities for Internet activities conducted in connection with federal elections. To what extent should a computer network be treated as part of a corporation or labor organization's facilities within the meaning of this provision? What level of use of such a network should be considered occasional, isolated or incidental use? How should this be determined?

If a corporation allows an employee to post candidate-related materials on a web site that resides on the corporation's computer network, should the employee be required to reimburse the corporation for the costs of the site? What if the corporation's network has enough surplus capacity that the web site would not increase its overhead or operating costs? What if an employee uses the corporation or labor organization's computer network to send an electronic mail message soliciting contributions or expressly advocating the election or defeat of a candidate? Has the corporation or labor organization provided something of value?

7. News Organizations

a. On-line Publications

The Act contains an exception from the definition of ''expenditure'' for ''any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate.'' 2 U.S.C. 431(9)(B)(i). Section 100.8(b)(2) of the regulations also excludes ''any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station (including a cable television operator, programmer or producer), newspaper, magazine, or other periodical publication'' from the definition of ''contribution,'' unless the media outlet is owned or controlled by a political party, political committee, or candidate.

The Commission is interested in comments on how these provisions, generally referred to collectively as the ''news story exemption,'' should be applied to the Internet. Under what circumstances should the Commission regard an Internet site as a ''newspaper, magazine, or other periodical publication'' within the meaning of the exemption in section 431(9)(B)(i)? Should it make a difference whether the site owner also produces a broadcast or print publication? Should a site be treated as a periodical publication if the owner regularly revises or updates the site? What, if any, additional characteristics should be required?

Some Internet publishers use ''list serves'' or other types of electronic mailing lists that enable the publisher to send the publication to all subscribers using a bulk e-mail message. Using this method, the publisher can distribute the publication to a large number of subscribers instantly, at very little cost. The Commission is interested in comments on whether publication and distribution via a list serve or other widely-distributed electronic mail communication should fall within the news story exemption? Should it make a difference whether recipients receive these communications without requesting them, only after requesting them, or only after paying a subscription fee? The Commission invites comments on these issues.

Questions also arise as to whether and when information distributed via these sites would be a ''news story, commentary or editorial'' within in the meaning of the exemption. A similar issue arose in *Reader's Digest Association* v. *Federal Election Commission*, 509 F. Supp. 1210 (S.D.N.Y. 1981), in which Reader's Digest Association, a magazine publisher, produced a videotape that featured a federal candidate, and distributed it to various television stations and networks. The videotape related to a story to be run in its print edition. The court noted that the news story exemption ''would seem to exempt only those kinds of distribution that fall broadly within the press entity's legitimate press function.'' *Id.* at 1214. The court concluded that the Commission was entitled to investigate the question of whether Reader's Digest Association was acting as a press entity when it produced and distributed the videotape.

The Commission invites comments on whether new rules are needed to determine whether a news organization's Internet activities fall within its legitimate press function. Are there types of web site content that should be regarded as unrelated to the press function?

b. Candidate Appearances

The Commission is interested in comments on how the Act and regulations should be applied when candidates make public appearances via a web site operated by a news organization. These appearances can take many different forms. New technologies make it possible for candidates to appear on the Internet and interact with viewers in real time. In some cases, the candidate might make a speech that is broadcast on-line using streaming video technology. In other cases, a web site or Internet service provider might invite its members, subscribers, or the general public to attend a real-time on-line interview with a candidate, and may also invite viewers to submit questions for the candidate by electronic mail. It is also possible that, in the future, candidate debates will either be conducted entirely on-line, or will be simulcast on-line. In either case, viewers may be invited to submit questions or comments to the participating candidates.

The Commission addressed some of the issues raised by this activity in Advisory Opinion 1996–16, in which a news and information service proposed to invite presidential candidates to appear in a series of electronic town meetings with the news service's subscribers. During these town meetings, the candidates were linked via two-way television to a live audience consisting of subscribers and other invited guests. The candidates made brief introductory remarks and then answered questions from the live audience. Other subscribers were able to listen by telephone line and submit questions by electronic mail. Later, they could view a multimedia version of the program on the service's dedicated computer terminals.

The Commission concluded that town meetings fall within the press exemption when the news service is a *bona fide* press entity. The Commission reiterated two relevant considerations set out in the statute: (1) Whether the press entity is owned by a political party or candidate; and (2) whether the press entity is acting as a press entity in performing the media activity. The Commission noted that the media entity planned the meetings and therefore controlled the means of presentation, the duration, and the format of the candidates' appearances. Thus, the activity fell within the scope of the news story exemption. The Commission invites comments on whether this conclusion should be revised or incorporated into the regulations, and on other issues raised by candidate appearances on the Internet.

c. On-line Discussions

Another area of campaign-related activity on the Internet is the use of ''chat rooms'' and other fora for interactive discussions of issues and candidates. Are there circumstances under which the sponsor of such a forum should be responsible for statements made by persons participating in the discussion? Does the sponsor make an expenditure by providing a venue for individuals to expressly advocate on behalf of a candidate?

8. Party Committees

The Commission is interested in comments on the impact of the Act and regulations on the use of the Internet by political party committees. One area in which the rules may impact party committee use of the Internet is in the allocation of expenses between candidates under 11 CFR 106.1. Section 106.1(a) states that

> [e]xpenditures, including in-kind contributions, independent expenditures, and coordinated expenditures made on behalf of more than one clearly identified federal candidate shall be attributed to each such candidate according to the benefit reasonably expected to be derived. For example, in the case of a publication or broadcast communication, the attribution shall be determined by the proportion of space or time devoted to each candidate as compared to the total space or time devoted to all candidates. In the case of a fundraising program or event where funds are collected by one committee for more than one clearly identified candidate, the attribution shall be determined by the proportion of funds received by each candidate as compared to the total receipts by all candidates. These methods shall also be used to allocate payments involving both expenditures on behalf of one or more clearly identified federal candidates and disbursements on behalf of one or more clearly identified non-federal candidates.

Party committee web sites often contain references to multiple candidates. Should party committees be required to allocate the costs of their web sites to the candidates mentioned on the site? If so, should the ''time-space'' allocation method set out in section 106.1(a) be applied? Should a party committee be required to take any reference to a candidate, no matter how brief, into account in allocating the web site's costs? Or, should the committee be able to limit its allocation to more extensive references, and exclude candidates to whom only minimal reference is made? Would it be adequate to exempt hyperlinks to candidate web sites from the time-space allocation of a web site, but include more extensive references?

Alternatively, should some or all of the expenses of a web site be treated as ''overhead, general administrative, fund-raising, and other day-to-day costs of political committees'' that need not be attributed to individual candidates under section 106.1(c)(1)? The Commission invites comments on these issues.

The Commission is also interested in the related issue of whether the costs associated with references to candidates on a party committee web site should count toward the party committee's coordinated expenditure limit. Section 441a(d) of the Act states that the national committee of a political party and a state committee of a political party may make expenditures in connection with the general election campaign of candidates for Federal office, up to certain dollar limits. These limits apply to expenditures that are coordinated with the party's candidates. *See Colorado Republican Federal Campaign Committee* v. *FEC,* 518 U.S. 604 (1996). Under what circumstances should a party committee's Internet expenditures count toward this limit?

Finally, the Commission encourages commenters to discuss any other issues relating to the use of the Internet by party committees.

Reporting and Recordkeeping

The use of new avenues for conducting campaign activity often raises reporting issues. Consequently, the Commission is interested in comments on how the use of the Internet impacts the disclosure process.

1. Contributions Received Via the Internet

a. Reporting

In Advisory Opinion 1995–9, the Commission concluded that a political committee could use the Internet to solicit and accept contributions so long as the recordkeeping and reporting requirements were met. The Commission cited previous advisory opinions in which it ''recognized that the Act and regulations allow lawful contributions to be made not only by personal check, but also in other ways, including properly documented use of credit cards (Advisory Opinions 1978–68 and 1984–45).'' As discussed above, the Commission also recently revised its regulations to allow for matching of credit card contributions received by Presidential primary candidates via the Internet. 64 FR 32,394 (June 17, 1999). See also Advisory Opinion 1999–9.

The Commission listed the reporting requirements that the nonconnected committee in Advisory Opinion 1995–9 was required to follow. The committee was required to itemize its receipts, and use best efforts to obtain and submit the full name, mailing address, occupation and name of employer of any person who makes contributions that aggregate in excess of $200 in a calendar year. The Commission also said that if a credit card company or other processing entity deducts fees from the contribution before forwarding it to the committee, those fees would be operating expenses of the committee, and must be reported as such. (Note that, for publicly funded candidates, these fees would be exempt fundraising expenses under 11 CFR 100.8(b)(21)). The committee was also required to report the full amount paid by the contributor as a contribution, notwithstanding any deductions by the credit card company. *See* 2 U.S.C. 434(b)(5)(A), 11 CFR 104.3(b)(3).

The Commission invites comments on whether these conclusions should be revised or incorporated into the regulations, and on whether any additional reporting requirements should be imposed on committees that receive contributions via the Internet.

b. Screening prohibited and excessive contributions

Section 103.3(b) of the regulations states that the treasurer of a political committee shall be responsible for examining all contributions received for evidence of illegality and for ascertaining whether contributions received, when aggregated with other contributions from the same contributor, exceed the contribution limitations of 11 CFR 110.1 or 110.2.

The Commission is interested in comments on whether additional safeguards are needed to ensure that contributions received via the Internet do not come from sources that are prohibited from making contributions

under the Act, and do not exceed the contributions limits. Should the regulations regarding the process of the screening contributions be revised? Are more specific processing requirements needed to screen out contributions from foreign nationals?

In Advisory Opinion 1995–9, the Commission endorsed a screening procedure in which the web site soliciting contributions would list the prohibitions in the Act, and ask contributors to specifically attest that their contributions were both voluntary and permissible under each prohibition. Potential contributors that did not do so would receive a message stating that Federal law prohibits their contribution, and inviting those who think they have filled out the contribution form incorrectly to try again. The Commission also addressed the issue of screening procedures in Advisory Opinion 1999–9. Should aspects of the screening procedures described in these advisory opinions be incorporated into the regulations? Should these procedures be modified? The Commission invites comments on these issues.

2. Disbursements for Expenses Incurred in Internet Activity

The Commission is interested in comments on whether or not disbursements for Internet-related expenses should be subject to the reporting requirements? If so, how should costs associated with establishing a campaign web site be reported? Should they be operating expenses, or as some other type of expense? If the committee of a publicly funded candidate uses its web site to solicit contributions, should a portion of the cost of establishing and maintaining the site be treated as exempt fundraising expenses under 2 U.S.C. 431(9)(B)(vi) and 11 CFR 100.8(b)(21)? How should a committee report the initial costs of the computer hardware obtained to host the site? What about the costs of software purchased to create and maintain the site? How should fees paid to Internet service providers be reported?

Comments are also welcome on whether the reporting requirements should be applied to a web site that is only partially devoted to candidate advocacy. If so, how should the costs associated with the candidate-related portion of the site be determined and reported?

Similar issues arise in relation to a multicandidate committee web site that mentions several candidates. As discussed above in relation to party committees, section 106.1 of the Commission's current regulations requires multicandidate committees to attribute expenditures made on behalf of more than one candidate to each candidate according to the benefit reasonably expected to be derived. 11 CFR 106.1(a)(1). Should a multicandidate committee whose web site expresses support for several candidates be required to allocate the costs of the site? If so, should the time-space allocation method in section 106.1(a)(1) be used to allocate those costs between the specifically identified candidates? Or, should the costs of the web site be treated the same as the committee's other administrative expenses, and allocated in accordance with 11 CFR 106.6(c)?

3. Recordkeeping

The use of the Internet for campaign activity also raises questions regarding the retention of campaign records. Sections 432(c) and (d) of the FECA require treasurers to create and maintain records of committee transactions, and preserve those records for three years after filing the associated report. In the case of reports filed electronically, machine-readable copies of committee reports must be maintained for three years.

In Advisory Opinion 1995–9, discussed above, the Commission concluded that the requesting committee could maintain records of contributions received via the Internet in non-paper form so long as the electronic records contained the information required by the statute, and were retained for three years.

The Commission is interested in comments on the types of records committees should be required to keep regarding transactions conducted via the Internet. Should these records be maintained differently than those made using traditional media? Should the conclusion reached in Advisory Opinion 1995–9 regarding retention of records be revised or explicitly stated in the regulations?

Other Issues

1. Electronic Mail

Many aspects of the campaign finance process involve the use of the mail. The Commission is interested in comments on how broadly it should treat electronic mail as a substitute for regular mail.

For example, section 432(i) of the FECA requires treasurers of political committees to exercise ''best efforts'' to report the complete identification of each contributor whose contributions aggregate more than $200 per calendar year. 2 U.S.C. 434(b)(3)(A). For an individual, ''identification'' means the full name, mailing address, occupation and employer. 2 U.S.C. 431(13). If a contributor fails to provide this information, the Commission's rules require the recipient committee to make one oral or written follow-up attempt to obtain the contributor information for any contribution that exceeds $200 per calendar year. 11 CFR 104.7(b)(2)

The threshold question presented is whether a follow-up attempt sent by electronic mail should satisfy the best efforts requirement. In Advisory Opinion 1995–9, the Commission determined that, in the case of a contribution received via the Internet, the follow-up request could consist of an electronic message sent to the contributor's e-mail address. However, the request must be sent after the committee received the credit card company's confirmation of the contribution, and must meet the specific ''best efforts'' requirements set forth in 11 CFR 104.7(b)(2).

The Commission is interested in comments on whether the conclusion reached in Advisory Opinion 1995–9 regarding the use of electronic mail for best efforts follow-up communications should be revised or incorporated into the regulations. If so, how should the rules address situations where a committee's follow-up request is not successfully delivered to the contributor? For example, if the contributor has changed his or her e-mail address, he or she would not receive the follow-up request directly. Furthermore, if the contributor has not arranged for e-mail sent to his or her old address to be forwarded, he or she may not receive the request at all. In addition, the committee's follow-up request might reach the contributor's former address before that account has been completely deactivated by the Internet service provider. In that case, the committee would not receive an error message indicating that its follow-up request was undeliverable, and thus might not be aware that its follow-up request had not reached the contributor. How should the rules address these situations?

Should the Commission extend Advisory Opinion 1995–9 to allow committees to use electronic mail to follow up on contributions received by regular mail? Are contributors more likely to provide information when prompted to do so by a computer than they are when they are prompted by regular mail or a phone call?

Finally, the Commission is interested in comments on whether there are circumstances in which the disclaimer requirement should apply to electronic

mail. As explained above, section 441d of the FECA states that ''[w]henever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising,'' the communication must contain a disclaimer statement. *See also* 11 CFR 110.11. Comments are welcome on the question of whether list serves or other forms of electronic mail that are distributed to large numbers of recipients in bulk should be regarded as general public political advertisements for which a disclaimer is required.

The Commission is also interested in comments on any other issues raised by the use of electronic mail for candidate or election-related activity.

2. Membership

Section 441b(b)(4)(A) prohibits a corporation and its separate segregated fund from soliciting contributions from persons other than its stockholders and their families or its executive or administrative personnel and their families. However, under paragraph (b)(4)(C), a membership organization or its the separate segregated fund may solicit contributions from ''members'' of the organization. The Commission recently approved new rules defining the term ''member.'' 64 FR 41,266 (Jul. 30, 1999). These rules are currently before Congress pending legislative review.

Because of the increasing availability of the Internet, there may now be organizations that exist almost entirely on-line. Persons visiting the web site of such an organization may be invited to become members of the organization. Are there special considerations in determining whether these organizations qualify as ''membership organizations?'' Are there additional factors in evaluating whether someone is a ''member'' of an on-line membership organization?

3. Draft Committees

Periodically, groups form to encourage, or ''draft,'' someone to become a candidate for a particular office. The Internet may be the ideal vehicle for draft committees to use to generate support for their prospective candidates.

The Commission is interested in comments on the use of the Internet by draft committees. The current rules contain only one provision that is directed specifically at draft committees. Section 102.14(b)(2) states that ''[a] political committee established solely to draft an individual or to encourage him or her to become a candidate may include the name of such individual in the name of the committee provided the committee's name clearly indicates that it is a draft committee.'' Should the rules be revised to address other aspects of draft committee activities? Do web sites established by draft committees raise any special issues under the FECA? The Commission is interested in comments on these issues.

Conclusion

The Commission invites comments on these issues, and on any other issues related to the use of the Internet for campaign activity.

Dated: November 1, 1999.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 99–28982 Filed 11–4–99; 8:45 am]

BILLING CODE 6715–01–U

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–1050]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is publishing for comment proposed revisions to the official staff commentary to Regulation Z (Truth in Lending). The commentary applies and interprets the requirements of Regulation Z. The proposed update addresses short-term cash advances commonly called ''payday loans'' and includes technical revisions.

DATES: Comments must be received on or before January 10, 2000.

ADDRESSES: Comments, which should refer to Docket No. R–1050, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments addressed to Ms. Johnson may also be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. weekdays, and to the security control room at all other times. The mail room and the security control room, both in the Board's Eccles Building, are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments may be inspected in room MP–500 in the Board's Martin Building between 9:00 a.m. and 5:00 p.m., pursuant to the Board's Rules Regarding the Availability of Information, 12 CFR part 261.

FOR FURTHER INFORMATION CONTACT: Natalie E. Taylor, Michael E. Hentrel, or David A. Stein, Staff Attorneys; Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412; for users of Telecommunications Device for the Deaf (TDD) *only*, contact Diane Jenkins at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the Truth in Lending Act (TILA; 15 U.S.C. 1601 *et seq.*) is to promote the informed use of consumer credit by providing for disclosures about its terms and cost. The act requires creditors to disclose the cost of credit as a dollar amount (the finance charge) and as an annual percentage rate. Uniformity in creditors' disclosures is intended to assist consumers in comparison shopping for credit. TILA requires additional disclosures for loans secured by consumers' homes and permits consumers to rescind certain transactions that involve their principal dwelling. In addition, the act regulates certain practices of creditors. The act is implemented by the Board's Regulation Z (12 CFR part 226).

The Board's official staff commentary (12 CFR part 226 (Supp. I)) interprets the regulation, and provides guidance to creditors in applying the regulation to specific transactions. The commentary is a substitute for individual staff interpretations; it is updated periodically to address significant questions that arise. The Board expects to adopt revisions to the commentary in final form in March 2000; to the extent the revisions impose new requirements on creditors, compliance would be optional until October 1, 2000, the effective date for mandatory compliance.

II. Proposed Revisions

Subpart A—General

Section 226.2—Definitions and Rules of Construction

2(a) Definitions
2(a)(14) Credit

The Board has been asked to clarify whether ''payday loans''—also known as ''cash advance loans,'' ''check advance loans,'' and ''post-dated check loans''—constitute credit for purposes of TILA. Typically in such transactions, a short-term cash advance is made to a consumer in exchange for the consumer's personal check in the

amount of the advance, plus a fee; sometimes the advance is made in exchange for the consumer's authorization to debit electronically the consumer's checking account in the amount of the advance, plus a fee. The transaction occurs with knowledge by both parties that the amount advanced is not, or may not be, available from the consumer's checking account at the time of the transaction. Thus, the parties agree that the consumer's check will not be cashed or the account electronically debited until a designated future date. On that date, the consumer usually has the option to repay the obligation by allowing the party advancing the funds to cash the check or electronically debit the consumer's checking account, or by providing cash or some other means of payment. The consumer may also have the option to defer repayment beyond the initial period by paying an additional fee.

Section 226.2(a)(14) defines credit as the right to defer the payment of debt or the right to incur debt and defer its payment. In the case of payday loans, this includes the agreement to defer cashing the check or debiting the consumer's account. Comment 2(a)(14)-2 would be added to clarify that payday loan transactions constitute credit for purposes of TILA. Persons that regularly extend payday loans and impose a finance charge are required to provide TILA disclosures to consumers.

Subpart C—Closed-End Credit

Section 226.19—Certain Residential Mortgage and Variable-rate Transactions

19(b) Certain variable-rate transactions

In December 1997, the Board revised the requirements in § 226.19(b)(2) concerning the disclosure of a fifteen-year historical example of interest rates and payments. (62 FR 63441, December 1, 1997.) The amendments to § 226.19(b)(2) provide creditors with the option of giving a statement that the periodic payments may increase or decrease substantially together with the maximum interest rate and payment amount for a $10,000 loan amount in lieu of having to give the fifteen-year historical example.

The Board proposes technical amendments to comment 19(b)-5 to conform the citations in the comment to § 226.19(b)(2), as amended. No substantive change is intended.

Subpart E—Special Rules for Certain Home Mortgage Transactions

Section 226.32—Requirements for Certain Closed-end Home Mortgages

32(a) Coverage

32(a)(1)(ii)

TILA imposes additional disclosure requirements and substantive limitations on certain closed-end mortgage loans bearing rates or fees above a certain percentage or amount. See § 226.32. Creditors must follow the rules in § 226.32 if the total points and fees payable by the consumer at or before loan closing exceed the greater of $400 or 8 percent of the total loan amount. The Board is required to adjust the $400 amount each year. The adjusted amount for 2000 ($451) is published elsewhere in today's **Federal Register** and would be added to comment 32(a)(1)(ii)–2.

III. Form of Comment Letters

Comment letters should refer to Docket No. R–1050, and, when possible, should use a standard typeface with a font size of 10 or 12. This will enable the Board to convert the text to machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Also, if accompanied by an original document in paper form, comments may be submitted on 3½ inch computer diskettes in any IBM-compatible DOS-or Windows-based format.

List of Subjects in 12 CFR Part 226

Advertising, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

Text of Proposed Revisions

Certain conventions have been used to highlight the proposed revisions to the text of the staff commentary. New language is shown inside bold-faced arrows, while language that would be deleted is set off with bold-faced brackets. Comments are numbered to comply with **Federal Register** publication rules.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 226 as follows:

PART 226—TRUTH IN LENDING (REGULATION Z)

1. The authority citation for part 226 continues to read as follows:

Authority: 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

2. In Supplement I to Part 226, under *Section 226.2—Definitions and Rules of Construction,* under *2(a)(14) Credit.,* a new paragraph 2. would be added to read as follows:

Supplement I to Part 226—Official Staff Interpretations

* * * * *

Subpart A—General

* * * * *

Section 226.2—Definitions and Rules of Construction

2(a) Definitions.

* * * * *

2(a)(14) Credit.

* * * * *

➧ 2. *Payday loans.* Credit includes a payday loan transaction in which a short-term cash advance is made to a consumer in exchange for the consumer's personal check, in the amount of the advance plus a fee, or in exchange for the consumer's authorization to debit the consumer's checking account, for the amount of the advance plus a fee. In both instances the parties agree that the check will not be cashed, or that the consumer's checking account will not be debited, until a designated future date.➧

3. In Supplement I to Part 226, under *Section 226.19—Certain Residential Mortgage and Variable-Rate Transactions,* under *19(b) Certain variable-rate transactions,* paragraph 5. would be revised to read as follows:

* * * * *

Subpart C—Closed-End Credit

* * * * *

Section 226.19—Certain Residential Mortgage and Variable-Rate Transactions

* * * * *

19(b) Certain variable-rate transactions.

* * * * *

5. *Examples of variable-rate transactions.* The following transactions, if they have a term greater than one year and are secured by the consumer's principal dwelling, constitute variable-rate transactions subject to the disclosure requirements of § 226.19(b).

i. Renewable balloon-payment instruments where the creditor is both unconditionally obligated to renew the balloon-payment loan at the consumer's option (or is obligated to renew subject to conditions within the consumer's control) and has the option of increasing the interest rate at the time of renewal. (See comment 17(c)(1)–11 for a discussion of conditions within a consumer's control in connection with renewable balloon-payment loans.)

ii. Preferred-rate loans where the terms of the legal obligation provide that the initial underlying rate is fixed but will increase upon the occurrence of some event, such as an employee leaving the employ of the creditor, and the note reflects the preferred rate. The disclosures under § 226.19(b)(1) and 226.19(b)(2)(v), (viii), (ix), [(x) and (xiii)] ➧and (xii)➧ are not applicable to such loans.

iii. ''Price level adjusted mortgages'' or other indexed mortgages that have a fixed rate of interest but provide for periodic adjustments to payments and the loan balance to reflect changes in an index measuring prices or inflation. The disclosures under § 226.19(b)(1) are not applicable to such loans, nor are the following provisions to the extent they relate to the determination of the interest rate by

the addition of a margin, changes in the interest-rate, or interest-rate discounts: Section 226.19(b)(2)(i), (iii), (iv), (v), (vi), (vii), (viii), ▶and◀ (ix)[, and (x)]. (See comments 20(c)–2 and 30–1 regarding the inapplicability of variable-rate adjustment notices and interest-rate limitations to price-level-adjusted or similar mortgages.)

iv. Graduated-payment mortgages and step-rate transactions without a variable-rate feature are not considered variable-rate transactions.

* * * * *

4. In Supplement I to Part 226, under *Section 226.32—Requirements for Certain Closed-End Home Mortgages,* under *32(a)(1)(ii),* paragraph 2.v. would be added to read as follows:

* * * * *

Subpart E—Special Rules for Certain Home Mortgage Transactions

* * * * *

Section 226.32—Requirements for Certain Closed-End Home Mortgages

32(a) Coverage.

* * * * *

Paragraph 32(a)(1)(ii). * * *

* * * * *

2. *Annual adjustment of $400 amount.*

* * *

* * * * *

▶v. For 2000, $451, reflecting a 2.3 percent increase in the CPI–U from June 1998 to June 1999, rounded to the nearest whole dollar.◀

* * * * *

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, November 1, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–29004 Filed 11–4–99; 8:45 am]

BILLING CODE 6210–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 611

RIN 3052–AB86

Organization; Termination of Farm Credit Status

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule will amend Farm Credit Administration's (FCA) regulations that will allow a Farm Credit System (FCS, Farm Credit or System) institution to terminate its FCS charter and become a financial institution under another Federal or State chartering authority. The purpose of our proposal is to amend the existing regulations so they apply to all banks and associations and to make other changes. We also withdraw a proposed termination rule published in 1993.

DATES: Please send your comments to us on or before February 3, 2000.

ADDRESSES: We encourage you to send comments via electronic mail to ''reg-comm@fca.gov'' or through the Pending Regulations section of our interactive website at ''www.fca.gov.'' You may mail or deliver comments to Patricia W. DiMuzio, Director, Regulation and Policy Division, Office of Policy and Analysis, 1501 Farm Credit Drive, McLean, VA, 22102–5090 or send by facsimile transmission to (703) 734–5784. You may review copies of all comments we receive in the Office of Policy and Analysis, FCA.

FOR FURTHER INFORMATION CONTACT:

Alan Markowitz, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4479;

or

Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of our proposed rule are to:

- Provide a termination procedure for Farm Credit associations and banks that implements section 7.10 of the Farm Credit Act of 1971, as amended (1971 Act);
- Ensure that all equity holders of a terminating institution are treated fairly and equitably;
- Ensure that stockholder disclosure materials are easy to read and understand;
- Ensure that the remaining FCS institutions can continue fulfilling their congressional mandate of serving the credit needs of farmers, ranchers, and cooperatives; and
- Ensure that the remaining FCS institutions are able to operate safely and soundly.

II. Background

The Agricultural Credit Act of 1987 [1] (1987 Act) amended the 1971 Act by adding section 7.10—Termination of System Institution Status. Section 7.10 allows an FCS institution to terminate its status as a Farm Credit institution if the institution:

- Provides advance notice to us at least 90 days before termination;
- Receives Federal or State approval of a charter for a bank, savings and loan or other financial institution;
- Receives our approval;
- Receives the approval of a majority of the institution's voting stockholders;
- Pays or adequately provides for the payment of all its outstanding debt obligations;
- Pays to the Farm Credit Insurance Fund (Insurance Fund) an amount by which the institution's capital exceeds 6 percent of its assets; and
- Fulfills any other conditions that we, by regulation, consider appropriate.

In addition to the requirements of section 7.10, section 7.11 of the 1971 Act requires that any plan of termination, including all information to be distributed to the stockholders, must be submitted to us for approval prior to the stockholder vote. Section 7.11 requires us to act on the plan of termination and related disclosure materials within 60 days of their submission to us. If we take no action, the institution may submit its proposal to stockholders. If we disapprove the plan, our notice to the institution must specify the reasons for disapproval.

On December 18, 1989, we published an Advance Notice of Proposed Rulemaking (ANPRM) [2] requesting comments on the manner and process for implementing the new termination procedures. On July 12, 1990, we published a proposed rule authorizing the termination of Farm Credit status for small associations only.[3] An association is defined as ''small'' when its investment in its affiliated Farm Credit Bank (FCB) is 25 percent or less of the bank's capital, or when its loan from the FCB totals 25 percent or less of the bank's total loans. On January 30, 1991, we published the current final rule that establishes the procedure for small associations.[4]

On March 19, 1993, we published a proposed rule establishing a procedure for the termination of large associations, FCBs and banks for cooperatives (BCs) and revisions to the regulations on the termination of FCS status for small associations (1993 proposed rule).[5] The 1993 proposed rule also included requirements enacted in the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (1992 Act).[6] The 1992 Act amended the 1971 Act by increasing our time to review the application from 30 days to 60 days and clarifying provisions for the repayment of assistance for debt obligations issued by the Farm Credit System Financial Assistance Corporation (FAC).

[1] Public Law 100–233, 101 Stat. 1568 (1988).

[2] *See* 54 FR 51763.

[3] *See* 55 FR 28639.

[4] *See* 56 FR 3397.

[5] *See* 58 FR 15099.

[6] Public Law 102–552, 106 Stat. 4102 (1992).

After the comment period for the 1993 proposed rule closed, we decided that additional public comment was needed. On July 26, 1993, we published a resolicitation of comments that explained how the exit fee was to be calculated and provided examples. In addition, we clarified other provisions of the 1993 proposed rule.

We took no further action on the 1993 proposed rule. We now withdraw the 1993 proposal and propose amendments to the existing rule. This proposal has similarities to the existing rule and the 1993 proposal but differs in several significant respects as follows:

1. There are no separate subparts for FCB and agricultural credit bank terminations. The 1993 proposal had three separate subparts.

2. The date on which a terminating institution's exit fee is calculated is the termination date. The information statement will include a ''preliminary exit fee estimate,'' calculated as of the quarterend before the termination application is filed, with any adjustments we may require. In the existing rule and 1993 proposal, the date of the exit fee calculation is the quarterend before the termination application is filed.

3. A terminating institution must pay 110 percent of the preliminary exit fee estimate, with any adjustments we may require, into an escrow account on the termination date. It must also pay into escrow 110 percent of the amount of stock retirements to dissenting stockholders and System institutions. After an independent audit to determine the final exit fee, the escrow agent will disburse the funds.

4. A terminating association may repay its direct loan on a schedule agreed to by its bank, without a time limit on the repayment period. In the existing rule and the 1993 proposal, the association must repay the loan in 3 years or less.

5. A Farm Credit bank does not have to enter into an agreement with a terminating affiliated association regarding when the bank will retire the association's investment. Instead, the bank may retire the investment according to an existing capital revolvement plan or may make some other retirement agreement with the association. In the absence of a revolvement plan or other agreement with the association, the bank must retire the investment on or before the date the association (or the successor institution) repays its direct loan. In the existing rule and the 1993 proposal, the FCA must specify how the investment is retired if the bank and the association cannot agree.

6. System institutions with investments in a terminating institution have the option to exchange their investments for equity in the successor institution. In the existing rule and the 1993 proposal, the terminating institution must retire equity held by other System institutions (other than an affiliated bank) at termination.

7. In the existing rule and the 1993 proposal, the adjusted book value of dissenting stockholders' equities is calculated after the exit fee. The terminating institution must, in effect, pay dissenting stockholders out of the total capital the successor institution may retain. In our proposal, a dissenting stockholder receives the adjusted book value for his equity, calculated before the exit fee is paid. The terminating institution pays dissenting stockholders before the calculation of the total capital it may retain for the successor institution. In addition, the calculation of a non-terminating association's interest in a terminating bank is unchanged from the 1993 proposal.

8. A terminating bank's payment to the FAC is to be based only on the retail loan volume of the bank, the associations terminating with it, and any association maintaining its direct loan with the terminating bank after termination. The 1993 proposal did not specify whether the retail loan volume of a non-terminating affiliated association would be included in the calculation of a terminating bank's FAC payment.

9. We have rewritten the rule using plain language principles. Those principles are: short sentences; minimal use of defined terms and highly technical words; the active voice; and the use of ''we'' or ''us'' for the FCA and ''you'' for the terminating institution.

Below is a section-by-section analysis of the proposed rule.

III. Section-by-Section Analysis

Our section-by-section analysis of the proposed rule generally discusses only those sections where we have recommended substantive changes.

Section 611.1200 Applicability of These Regulations

This section is amended to be applicable to all FCS banks and associations. The existing rule applies only to small associations.

Section 611.1205 Definitions That Apply in Subpart P

We propose a number of changes to this section. The terms ''terminating association,'' ''terminating resolution,'' and ''termination vote'' would be deleted since they are explained in other sections of these regulations. We propose to replace the definition of ''GAAP'' with a reference to the definition of ''generally accepted accounting principles'' in our accounting regulations, which are in part 621 of this chapter. Our proposal would move the definition of ''assets'' from existing § 611.1240 to this section, because the term is also used in other sections of the termination regulations.

Section 611.1210 Commencement Resolution and Advance Notice

We propose to amend § 611.1210(b)(1) by requiring the terminating institution to send a certified copy of the commencement resolution to us and the Farm Credit System Insurance Corporation (FCSIC). A terminating association must also send a copy to its affiliated bank. A terminating bank must also send a copy to its affiliated associations, the other FCS banks, and the Federal Farm Credit Banks Funding Corporation (Funding Corporation). We would revise § 611.1210(b)(2) to clarify that the brief announcement to all equity holders must describe the specific effect of termination on the equities held and on any borrower rights.

Existing § 611.1210(c)(1) requires a terminating institution to submit to us an estimate of its exit fee with an explanation of how it was calculated. We propose to eliminate this requirement. We also propose to eliminate existing § 611.1210(c)(2) and (3), which contain a procedure for the FCA to confirm the terminating institution's exit fee before submission of the termination application. We believe that we can review the terminating institution's exit fee calculations during our 60-day statutory review period.

Proposed § 611.1210(c) would require a terminating bank to begin negotiations with the remaining FCS banks on the terminating bank's satisfaction of its share of Systemwide obligations under section 4.4 of the 1971 Act. The Funding Corporation, at its option, may participate in these negotiations and be a party to the agreement referred to in § 611.1260(c) to the extent necessary for the Funding Corporation to fulfill its duties with respect to financing and disclosure.

Proposed § 611.1210(e) allows a terminating bank to continue to participate in Systemwide debt obligations until the date of termination. Existing § 611.1210(e) has been redesignated as (f).

Section 611.1215 Prohibited Acts

We propose to redesignate existing § 611.1226 as § 611.1215. This section is substantially similar to the existing rule on prohibited acts, except that we have expanded its application to prospective, as well as current, equity holders.

Section 611.1220 Filing of Termination Application

We propose to redesignate existing § 611.1211 as § 611.1220. The substance of this section is unchanged from the existing rule, except that we would require five copies of a termination application. This is the same number of copies we require for other types of corporate applications, such as mergers. However, should an institution send us the application in electronic form, it must send us at least one hard copy application with original signatures.

Section 611.1221 Filing of Termination Application—Timing

We propose to redesignate existing § 611.1212 as § 611.1221. We propose to eliminate the references to the filing date and the 10-day review period for technical completeness in existing § 611.1212(a) and (b). We also propose to reduce the 60-day advance notice requirement in existing § 611.1212(c) to 30 days. If we receive the termination application less than 30 days after receiving the advance notice as required by redesignated § 611.1221(b), we may disapprove the application. The 30-day time period is now adequate as a result of statutory changes that provided us with an additional 30 days to act on a termination application.

Section 611.1222 Plan of Termination—Contents

We propose to redesignate existing § 611.1230 as § 611.1222. This section is substantially similar to the existing rule.

Section 611.1223 Information Statement—Contents

We propose to redesignate § 611.1225 as § 611.1223. Proposed § 611.1223 has a new requirement to draft the information statement according to plain language principles. We believe System institutions should make their communications with stockholders easy to read and understand, just as we have undertaken to do in communications with System institutions and the public. Since last October, we have been complying with a Presidential directive to write communications in plain, everyday language and use short sentences, the active voice, and the pronoun ''you'' where appropriate. We strongly endorse the President's directive and believe that using plain language saves the Government and the public time, effort, and money.[7]

Our proposal has a requirement to draft the information statement in a clear, concise and understandable manner using:

- Short sentences;
- Active voice;
- Tabular presentation or bullet lists for complex material, whenever possible; and
- No legal jargon or highly technical business terms.

Our proposal is modeled on the plain English rule of the Securities and Exchange Commission (SEC) that applies to prospectuses.[8] The SEC's rule, which went into effect on October 1, 1998, is the result of a joint effort by that agency and a number of regulated companies to improve their disclosure documents for the benefit of investors, their ultimate users. Our new requirement would give the same benefit to the stockholders of a terminating institution by applying the same general principles to the information statement.

Proposed § 611.1223(d)(2) contains a new requirement to specify the amounts of the estimated exit fee and the estimated expenses of termination and organization of the successor institution. It also separates the statutory requirement to list the benefits and disadvantages of the termination from the explanation of the board's basis for recommending the termination. We believe a separate discussion of this information will be important to stockholders in their evaluation of the termination proposal. The rest of proposed § 611.1223 contains substantially the same requirements as the existing rule except that we propose to require a balance sheet and income statement for each of the 3 preceding years. We believe it is important for stockholders to have an additional year of financial information to review to provide a complete picture of the proposed termination.

Section 611.1230 FCA Review and Approval

We propose to redesignate § 611.1215 as § 611.1230. We propose to amend this section to remove the references to the filing date and extend our review period from 30 days to 60 days, to implement the change made to section 7.11(a)(2) of the 1971 Act by the 1992 Act. In proposed new § 611.1230(b), we would retain the right to deny a termination if we determine that the termination would have a material adverse effect on the ability of the remaining FCS institutions to adequately serve agriculture. We do not believe Congress intended section 7.10 to jeopardize the ability of the System to continue to fulfill its congressional mandate of serving the credit needs of farmers, ranchers and their cooperatives.

Finally, existing § 611.1215(f) is redesignated as § 611.1230(d). We propose to clarify that, if a reconsideration vote is held, the termination cannot occur earlier than 15 days after the reconsideration vote.

Section 611.1240 Voting Record Date and Stockholder Approval

We propose to redesignate existing § 611.1220 as § 611.1240. While we have rewritten this section, it does not differ in substance from the existing rule.

Section 611.1245 Stockholder Reconsideration

We propose to redesignate existing § 611.1235 as § 611.1245. We have streamlined and simplified this section and amended the provision to require that stockholders submit the petition to us rather than the institution for review.

Section 611.1250 Preliminary Exit Fee Estimate

This proposal contains significant revisions to the timing of the exit fee calculations for banks and associations. First, in proposed § 611.1250 we add a ''preliminary exit fee estimate'' requirement to be calculated as of the quarterend before the institution files its termination application. Second, the computation date for the ''final exit fee,'' which is described in proposed § 611.1255, would be the actual termination date. These proposals differ from the existing rule, which requires the institution to estimate its exit fee after the commencement resolution and to calculate the actual exit fee as of the quarterend before filing the termination application.

We believe that calculating the exit fee on the termination date is more consistent with the 1971 Act's requirement. A calculation at this later date allows us to take into account all of the financial changes that occur up to and including the final date on which the institution is chartered as a System institution. We would still require an estimate of the exit fee as of the quarterend before the terminating institution files its application. This

[7] Presidential Memorandum on Plain Lanauge in Government Writing (63 FR 31883, June 10, 1998). The FCA, as an independent agency, is not obligated to comply but is doing so voluntarily.

[8] The SEC's plain English rule for prospectuses is set forth at 17 CFR 230.421. For additional guidance, you should consult the SEC's plain English Handbook, which is available on the SEC's website at *www.sec.gov.*

estimated exit fee, with any adjustments we require, would be used to explain the costs of termination to stockholders in the information statement.

Proposed § 611.1250(a) explains how to calculate the preliminary exit fee estimate for an association. Assets and liabilities would continue to be based on the average daily balances for the 12 months ending on the computation date. We have also kept the requirements that the account balances be independently audited and conform with GAAP. We may waive the requirement for an independent audit if one was performed as of a date less than 6 months before the filing of the termination application.

As described below, we propose to require a terminating association to add or subtract certain amounts from the assets and liabilities. Some of these amounts must be calculated on an average daily balance in order not to distort the effect of adding or subtracting the amounts. Other amounts, which are estimates of future transactions or expenses that we expect to be recorded on or close to the termination date, will not be averaged for this calculation.

We have kept the requirement that the terminating association must add back to assets expenses it has incurred because it is seeking to terminate its System status. We continue to believe that termination expenses are organizational expenses of the successor institution and are its responsibility. Thus, we propose not allowing such expenses when determining the exit fee.

In the 1993 proposed rule, we proposed to allow terminating institutions to subtract from their exit fees the FAC liabilities and certain tax liabilities that are due as a result of terminating. We are again allowing the deductions in this proposed rule, but the deductions will be from assets instead of the exit fee. This proposed amendment would not materially affect the amount of the exit fee to be paid.

The tax liability we refer to in proposed § 611.1250(a)(4)(ii)(B) generally relates to patronage distributions that some banks allocated to their associations prior to the issuance of Statement of Financial Accounting Standards No. 109. We believe that the net value of such patronage to the institution should be the same, whenever received, and therefore believe that it is appropriate to calculate capital based on the after-tax impact of all patronage distributions.

A terminating institution must make adjustments to assets and liabilities for significant future transactions that it reasonably expects to occur on or before the termination date. This is not intended to include nominal transactions or most expenses that occur in the normal course of business. We do expect a terminating institution to include non-routine or significant transactions such as retirements of equities, loan repayments, gains or losses on the sale of assets, and patronage distributions.

On the liability side of the balance sheet, a terminating must subtract from liabilities any GAAP liability that we treat as regulatory capital for capital or collateral purposes. We believe this approach is fair and equitable, and it is consistent with the treatment of regulatory capital by the other Federal financial institution regulatory agencies.

A terminating institution must also make any adjustments that we require under § 611.1250(c), as we do under existing § 611.1240(e).

After making the necessary adjustments to assets and liabilities, the preliminary total capital will be calculated by subtracting liabilities from assets. The preliminary exit fee estimate will be the amount by which the total capital exceeds 6 percent of assets, as adjusted.

Proposed § 611.1250(b) explains how to calculate the preliminary exit fee estimate when the terminating institution is a bank. The exit fee for a bank is based on the combined balance sheets of the bank and any affiliated associations that are terminating with it. The bank's portion would be the difference between the exit fee based on the combined balance sheets and the exit fees for the terminating associations calculated as if they were terminating alone. If there are no associations terminating with the bank, the exit fee is based solely on the bank's balance sheet.

The first of four steps in calculating a bank's preliminary exit fee estimate is to calculate the exit fee for the terminating associations as if they were terminating alone, according to § 611.1250(a). The second step is to adjust the bank's assets in the same manner as for an association, with the following three exceptions. A terminating bank must:

- Subtract from assets the average daily balances of the equity investments held by affiliated associations that are not terminating.
- Subtract from assets and liabilities the direct loans to affiliated associations that are not terminating.
- Add to assets the estimated amount of FAC payments it will receive from the terminating institutions. This offsets the deduction the bank makes when it adjusts its balance sheet for its payment to the FAC.

The third step is combining the bank's adjusted balance sheet with the adjusted balance sheets of the terminating associations in conformity with GAAP, using cross-elimination methods. For purposes of termination, total capital is calculated by subtracting the adjusted liabilities from adjusted assets of the combined balance sheets. Lastly, the adjusted assets of the combined balance sheets are multiplied by 6 percent. Subtracting this amount from the total capital results in the preliminary exit fee estimate for the combined entity. The bank's portion will be the difference between the preliminary exit fee estimate of the combined balance sheets and the total of exit fees for the terminating associations calculated in the first step. Although it is unlikely, if the exit fees of the terminating associations exceed the exit fee of the combined entity, the associations would pay their exit fees, and the bank would have no exit fee.

Proposed § 611.1250(c) is essentially the same as § 611.1240(e) in the existing regulations. It provides that we will review the transactions of the institution for the 3-year period prior to the termination resolution and will require adjustments, in order to assure that account balances are accurate. In addition, we may require adjustments to reverse the effect of transactions outside the ordinary course of business.

Section 611.1255 Exit Fee Calculation

We propose to redesignate existing § 611.1240 as § 611.1255. We are proposing to move the definition for assets that is in existing § 611.1240 to § 611.1205 and to remove the definitions for total capital and contingent liabilities as unnecessary. Proposed § 611.1255(a) describes the exit fee calculation for a terminating association. The final exit fee calculation is similar to the preliminary exit fee estimate, but there are several differences. One difference is that amounts estimated for the preliminary exit fee estimate will be known, and adjustments will be made for actual amounts. Another difference is that a terminating association must account for the retirement of equities of dissenting stockholders. To account for these retirements, the association must subtract from assets the equity retired to dissenting stockholders on the termination date before computing the exit fee. Dissenters' equity is not deducted in the preliminary exit fee estimate because a terminating institution would not know or be able to reasonably estimate the number of dissenters or the amount of their equity.

Subtracting payments to dissenters from assets before calculating total capital is a change from the existing regulation. In the existing regulation, because the exit fee is calculated before dissenting stockholders' equities are retired, the terminating institution in effect pays the dissenters out of the capital it would otherwise take to the successor institution. Another change from the existing regulation is in determining the book value of dissenting stockholders' equity. We propose to determine it before the exit fee is calculated. In the existing regulation, the book value is determined based on the capital the institution has after it pays the exit fee. In re-examining this issue, we decided to make this change so that all stockholders whose equity in the terminating institution is retired, including retail borrowers and non-terminating associations, would be treated in the same manner. Another reason for the change is that the book value would be similar to what it would be if the association liquidated instead.

Proposed § 611.1255(b) describes the final exit fee calculation for a terminating bank. As is the case with a terminating association, the final exit fee calculation for a bank is similar to the preliminary exit fee estimate. Again, the main differences between the preliminary estimate and the final exit fee are that actual values are used instead of estimates and the bank must subtract the equity retirements of dissenting stockholders as part of the final exit fee calculation. The amount is subtracted from assets before calculating the exit fee. In addition, the bank must subtract from assets and liabilities the direct loans to non-terminating affiliated associations only if they repay or transfer their loans before the bank terminates.

Proposed § 611.1255(c) covers payment of the exit fee and retirements of equity to dissenting stockholders. The terminating institution must deposit in an escrow account, acceptable to the FCSIC and us, an amount equal to 110 percent of the preliminary exit fee estimate with adjustments based on information available on the termination date. We will adjust the preliminary exit fee estimate to account for stock retirements to dissenting stockholders and System institutions, and any other adjustments we require. We believe this will be more accurate than using the preliminary exit fee estimate disclosed in the information statement because it replaces the estimated amounts for FAC obligations, taxes, and other expenses with actual amounts. It also includes stock retirements. As stated above, the final exit fee must be based on an independent audit of the terminating institution as of the termination date. The final account balances and final exit fee will not be known, and the final audit will not be completed, for several weeks or months after the termination. Thus, the estimated exit fee must be held in escrow until we know the final account balances and have calculated the final exit fee. In addition, the terminating institution also must deposit in escrow an amount equal to 110 percent of the equity retired to dissenting stockholders pending the final audit.

Proposed § 611.1255(d) describes the pay-out of escrow following completion of the independent audit. Following the audit, we will calculate the final exit fee and the amount owed to stockholders. We will direct the escrow agent to pay the exit fee to the Insurance Fund and to pay amounts owed to dissenting stockholders. The escrow agent will then return any remaining amounts to the successor institution. If the escrowed funds are not enough to cover the exit fee or the amounts owed to stockholders, proposed § 611.1255(e) requires the successor institution to pay any shortfall to the escrow agent for distribution to the appropriate parties. We will require the terminating institution to sign a statement binding the successor institution to pay additional amounts owed to dissenting stockholders and System institutions.

Section 611.1260 Payment of Debts and Assessments—Terminating Association

We propose to redesignate existing § 611.1250 as § 611.1260. Proposed § 611.1260 would continue to apply only to terminating associations. We propose to delete existing § 611.1250(b) because we believe it is unnecessary. We propose to redesignate § 611.1250(c) as § 611.1260(b) and remove the 3-year limitation for a terminating association that does not become an ''other financing institution'' to repay its debt obligations to its affiliated bank. Without the time limit, a bank will have the flexibility to set its own repayment terms as necessary for the bank to manage the risk on its balance sheet and its debt structure. However, if a terminating association is unable to reach agreement with its bank for repaying its obligations, the association must repay its obligations at termination. We also propose new § 611.1260(d) that requires a terminating association to pay its FAC debt obligations to its affiliated bank as required by section 6.26 of the 1971 Act. In response to comments received in response to the 1993 proposal, proposed § 611.1260(d) defines the appropriate discount rate that would be used. The rate would be the non-interest bearing U.S. Treasury security rate with a maturity as near as possible to the period remaining until the terminating association's FAC obligations would be due.

Section 611.1265 Retirement of equities—Terminating Association

We propose to redesignate § 611.1255 as § 611.1265. This section would continue to apply only to the termination of an association. Existing § 611.1255(a) authorizes a Farm Credit Bank to retire equities owned by a terminating association on the date of termination or in phases after the date of termination, in accordance with a written agreement between the bank and the association. The existing rule limits the phased retirement to the earlier of the date on which the terminating association repays all indebtedness to its bank or 3 years from the date of termination. Should the bank and the terminating association fail to reach an agreement on when to retire the bank's equities, existing § 611.1255(b) authorizes either party to request our review of the most recent proposals along with the points of disagreement. The existing rule states that we may require the bank to retire the terminating association's equities under conditions that we impose.

We propose to amend existing § 611.1255(a) and (b) by: (1) Removing the 3-year limitation for a terminating association's affiliated bank to retire purchased and allocated equities held by the association; (2) eliminating our role in deciding how retirements must occur when a terminating association and its affiliated bank cannot agree; and (3) redesignating § 611.1255(a) and (b) as § 611.1265(b) and (c). Our proposal would authorize the affiliated bank to retire purchased and allocated equities held by the terminating association in accordance with the terms of a capital revolvement plan or other agreement between the bank and the association. If there is no agreement, these equities must be retired no later than when the terminating association pays off its loan from the bank. However, any equity retirement by the bank is subject to its having adequate capital and remaining in a safe and sound condition as required by proposed § 611.1265(a).

Section 611.1255(a) of the existing rule prohibits a bank from retiring equities owned by a terminating association if such retirement would result in the bank's failure to meet minimum capital requirements. In addition, existing § 611.1255(c) states

that no retirement of equities may occur if we determine that the retirement would threaten the viability of the bank. We propose changes by: (1) Redesignating § 611.1255(c) as § 611.1265(a); and (2) prohibiting a bank from retiring a terminating association's equities if we determine that the bank would otherwise be in an unsafe or unsound condition.

In new § 611.1265(c), we clarify that a bank's retirement of a terminating association's equity is limited to the par or face value of purchased or allocated equities. A bank may not pay any portion of its unallocated surplus to a terminating association.

We propose to delete the requirements in existing § 611.1255(d) and (e) for associations to retire FAC-preferred stock prior to termination since all shares of FAC-preferred stock were redeemed before 1995. We also propose changes to § 611.1255(e) to give a Farm Credit institution with an equity interest in a terminating association the option of having the investment retired or maintaining its investment in that association after it terminates. However, should a Farm Credit institution decide to maintain its investment in a terminating institution, that investment would be included in the assets on which the exit fee is calculated. This could result in a reduction in the value of the investment when compared to the value of the equity if it were retired at termination.

Section 611.1270 Repayment of Obligations—Terminating Bank

Proposed § 611.1270 establishes the procedure for a terminating bank to satisfy its obligations. We have simplified the procedure that was published in the 1993 proposal. In addition, we have clarified several provisions as a result of comments received from both the 1993 proposal and the resolicitation. A terminating bank must pay or make adequate provision for payment of all its outstanding obligations as of the termination date. In the 1993 proposal, we listed three options a terminating bank may use to satisfy the Systemwide and consolidated obligations on which it is primarily liable. We have replaced this with a requirement in proposed § 611.1270(c) to allow any method that would be acceptable to the remaining FCS banks and us.

Proposed § 611.1270(c)(1) requires the terminating bank and the other FCS banks to enter into an agreement, subject to our approval, to satisfy obligations issued under section 4.2 of the 1971 Act on which it is not primarily liable. This agreement must specify how the successor institution will satisfy its joint and several liability to holders of obligations other than those obligations on which the terminating bank is primarily liable.

We propose in § 611.1270(c)(2) that the banks enter into an agreement to make adequate provision for payment of the terminating bank's joint and several liability. If the terminating bank and the other FCS banks are unable to reach agreement within 90 days before the proposed date of termination, the FCA will specify the manner in which the terminating bank will make adequate provision for the payment of its joint and several liability and the manner in which we will make joint and several calls for those obligations outstanding on the termination date.

Proposed § 611.1270(c)(3) clarifies that, notwithstanding any other provision in the regulations on how calls would be made by us on defaulted obligations, the terminating bank would remain liable under section 4.4 of the 1971 Act for all issues outstanding on the termination date until they are repaid.

Proposed § 611.1270(d) reflects the statutory amendments made by the 1992 Act governing the repayment of FAC obligations by a terminating bank. We propose to require a terminating bank to base the calculation of its FAC payment on the retail loan volume of the bank and those associations that are terminating with the bank or that will continue to have a direct loan relationship with the successor institution. If any of the bank's affiliated associations choose to remain in the System and transfer their direct loans to another Farm Credit bank, the calculation of the bank's FAC payment would not include the retail loan volume of those associations. In addition, it is our intention in this section to require the FAC to take into consideration loan volumes of previous years but not to require that the average of those years be used to project future loan volumes for the remaining years before FAC obligations mature. We invite your comment and suggestions on this point.

Section 611.1275 Retirement of equities—Terminating Bank

Proposed § 611.1275(a) states that System institutions that hold equities in a terminating bank have the right to have their equities retired on the termination date. Institutions may choose to maintain investments in a terminating bank even if they vote against the termination. However, the value of such equity could be reduced by the exit fee payment. Proposed § 611.1275(c) authorizes an association that is not terminating to require its terminating bank to transfer its investment to another FCS bank after its bank adopts a commencement resolution. The investment must include purchased and allocated equities and the association's pro rata share of the bank's unallocated surplus.

Section 611.1280 Dissenters' Rights

This section appears in the existing rule as § 611.1260. Proposed § 611.1280 addresses the rights of equity holders who dissent from the termination and requires that dissenters receive cash in exchange for their interests in the terminating institution. A dissenting stockholder is:

- An equityholder other than a System institution that was eligible to vote on the termination resolution and voted against the termination, or
- An equityholder on the termination date that was ineligible to vote.

The proposal would give dissenting stockholders the right to have their equities in the terminating institution retired on the termination date. The proposal would entitle dissenting stockholders to the adjusted book value of their equity in accordance with the priorities set forth in the liquidation provisions of the terminating institution's bylaws. The proposal differs from existing § 611.1260(c), which requires the amount paid to dissenting stockholders to be calculated after the amount of the exit fee is deducted from assets. Proposed § 611.1280 eliminates deduction of the exit fee. We believe that the proposed method provides dissenting stockholders their pro rata share of capital. However, this change is likely to result in a lower exit fee than in the existing regulation. We specifically seek comments on this.

Existing § 611.1260(c)(ii) authorizes a successor institution to issue subordinated debt to dissenting stockholders for amounts in excess of par or face value. Proposed § 611.1280(e) eliminates the payment of subordinated debt to dissenting stockholders. Since dissenting stockholders are paid before the calculation of the exit fee, there is no longer a need for an institution to issue subordinated debt. The terminating institution must pay dissenting stockholders in cash or make some other arrangement that is satisfactory to each dissenting equityholder for their share of capital.

Section 611.1285 Loan Refinancing by Borrowers

We have redesignated § 611.1266 as § 611.1285. Proposed § 611.1285(a), like existing § 611.1266, would require a terminating institution to provide credit and loan information about a borrower to another FCS institution when requested by a borrower seeking refinancing with such institution. Proposed § 611.1285(b) would also authorize any FCS institution to lend in a terminating institution's territory provided:

- We have not assigned the terminating institution's territory to another FCS institution; and
- The FCS institution seeking to lend in a terminating institution's territory is otherwise authorized by the 1971 Act and regulations to extend the type of credit provided by the terminating institution.

Section 611.1290 Continuation of Borrower Rights

This section appears in the existing rule as § 611.1270. While we have rewritten this section, it does not differ in substance from the existing rule.

List of Subjects in 12 CFR Part 611

Agriculture, Banks, banking, Organization and functions (Government agencies), Rural areas.

For the reasons stated in the preamble, we propose to amend part 611 of chapter VI, title 12 of the Code of Federal Regulations as follows:

PART 611—ORGANIZATION

1. The authority citation for part 611 is revised to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 4.20, 4.21, 5.9, 5.10, 5.17, 6.9, 6.26, 7.0–7.13, 8.5(e) of the Farm Credit Act (12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2208, 2209, 2243, 2244, 2252, 2278a–9, 2278b–6, 2279a–2279f–1, 2279aa–5(e)); secs. 411 and 412 of Public Law 100–233, 101 Stat. 1568, 1638; secs. 409 and 414 of Public Law 100–399, 102 Stat. 989, 1003, and 1004.

2. Revise subpart P to read as follows:

Subpart P—Termination of System Institution Status

Sec.

Subpart P—Termination of System Institution Status

§ 611.1200 Applicability of this subpart.

These regulations apply to each bank and association that desires to terminate its System institution status and become chartered as a bank, savings association or other financial institution.

§ 611.1205 Definitions that apply in this subpart.

Assets means all assets (less appropriate valuation adjustments) determined in conformity with GAAP, except as otherwise required in this subpart.

GAAP means ''generally accepted accounting principles'' as that term is defined in § 621.2(c) of this chapter.

OFI means an ''other financing institution'' that has a funding and discount agreement with a Farm Credit bank under section 1.7(b)(1) of the Act.

Successor institution means the bank, savings association, or other financial institution that the terminating bank or association will become when we revoke its Farm Credit charter.

§ 611.1210 Commencement resolution and advance notice.

(a) *Adoption of commencement resolution.* Your board of directors must begin the termination process by adopting a commencement resolution stating your intention to terminate Farm Credit status under section 7.10 of the Act.

(b) *Advance notice.* Within 5 days after adopting the commencement resolution, you must:

(1) Send a certified copy of the commencement resolution to us and the Farm Credit System Insurance Corporation (FCSIC). If you are an association, also send a copy to your affiliated bank. If you are a bank, also send a copy to your affiliated associations, the other Farm Credit banks and the Federal Farm Credit Banks Funding Corporation (Funding Corporation);

(2) Mail an announcement to all equity holders stating you are taking steps to terminate Farm Credit status and describing the following:

(i) The process of termination;

(ii) The expected effect of termination on equity holders, including the effect on borrower rights and the consequences of any stock retirements before termination;

(iii) The type of charter the successor institution will have; and

(iv) Any bylaw creating a special class of borrower stock and participation certificates under paragraph (f) of this section.

(c) *Bank negotiations on joint and several liability.* If you are a terminating bank, within 10 days of adopting the commencement resolution you and the other Farm Credit banks must begin negotiations to provide for your satisfaction of joint and several liability on consolidated and Systemwide obligations under section 4.4 of the Act. The Funding Corporation may, at its option, be a party to the negotiations to the extent necessary to fulfill its duties with respect to financing and disclosure. The agreement must comply with the requirements in § 611.1270(c).

(d) *Disclosure to customers after commencement resolution.* Between the date of the commencement resolution and the termination date, you must give the following information to your customers:

(1) For each applicant who is not a current stockholder, describe at the time of loan application:

(i) The effect of the proposed termination on the borrower's loan; and

(ii) Whether the borrower will continue to have any of the borrower rights provided under the Act and regulations.

(2) For any equity holders who ask to have their equities retired, explain that the retirement would extinguish the holder's right to exchange those equities for an interest in the successor institution. In addition, inform holders of equities entitled to your residual assets in liquidation that retirement before termination would extinguish their right to dissent from the termination and receive the adjusted book value of their equities.

(e) *Terminating bank's right to continue issuing debt.* Until the termination date, a terminating bank may continue to participate in the issuance of consolidated and Systemwide obligations to the same extent it would be able to participate if it were not terminating.

(f) *Special class of stock.* Notwithstanding any requirements to the contrary in § 615.5230(b) of this

chapter, you may adopt bylaws providing for the issuance of a special class of stock and participation certificates between the date of adoption of a commencement resolution and the termination date. Your stockholders must approve the special class before you adopt the commencement resolution. The equities must comply with section 4.3A of the Act and be identical in all respects to existing classes of equities that are entitled to the residual assets of the institution in a liquidation, except for the value a holder will receive in a termination. In a termination, the holder of the special class of stock receives value equal to the lower of either par (or face) value, or adjusted book value. A holder must have the same right to vote (if the equity is held on the voting record date) and to dissent as holders of similar equities issued before the commencement resolution. If the termination does not occur, the special classes of stock and participation certificates must automatically convert into shares of the otherwise identical equities.

§ 611.1215 Prohibited acts.

(a) *Statements about termination.* Neither the institution nor any director, officer, employee or agent may make any untrue or misleading statement of a material fact, or fail to disclose any material fact, about the termination to a current or prospective equity holder.

(b) *Representations regarding FCA approval.* Neither the institution nor any director, officer, employee or agent may make an oral or written representation to anyone that a preliminary or final approval of the termination by us is, directly or indirectly, either a recommendation on the merits of the proposal or an assurance that the information given by you to your equity holders is adequate or accurate.

§ 611.1220 Filing of termination application.

(a) *Adoption of termination resolution.* Your board must adopt a termination resolution authorizing the application for termination and for a new charter.

(b) *Contents of termination application.* Send us an original and five copies of the termination application for review and preliminary approval. If you send us the application in electronic form, you must send us at least one hard copy application with original signatures. The application must contain:

(1) A certified copy of the termination resolution;

(2) A copy of the plan of termination required under § 611.1222;

(3) An information statement that complies with § 611.1223;

(4) All other information that you give to current or prospective equity holders in connection with the termination; and

(5) Any additional information that either we request or your board of directors wishes to submit in support of the application.

(c) *Requirement to update application.* You must immediately send us any material changes to information in the plan of termination, including financial information, that occur between the date you file the application and the termination date. In addition, send us copies of any additional written information on the termination that you give to current or prospective equity holders before termination.

§ 611.1221 Filing of termination application—timing.

If we receive the termination application required in § 611.1220 less than 30 days after receiving the advance notice, we may in our discretion disapprove the application.

§ 611.1222 Plan of termination—contents.

The plan of termination must include:

(a) Copies of all contracts, agreements, and other documents on the proposed termination and organization of the successor institution.

(b) A statement of how you will transfer assets to, and have your liabilities assumed by, the successor institution.

(c) Your plan to retire outstanding equities or convert them to equities of the successor institution.

(d) A copy of the charter application for the successor institution, with any exhibits or other supporting information.

(e) A statement, if applicable, whether the successor institution will continue to borrow from a Farm Credit bank and how such a relationship will affect your provision for payment of debts. The plan of termination must include evidence of any agreement and plan for satisfaction of outstanding debts (including amounts you owe to the Farm Credit System Financial Assistance Corporation (FAC) because of the termination).

§ 611.1223 Information statement—contents.

(a) *Plain language requirements.*

(1) Present the contents of the information statement in a clear, concise and understandable manner.

(2) Use short, explanatory sentences, bullet lists or charts where helpful, and descriptive headings and subheadings.

(3) Minimize the use of glossaries or defined terms.

(4) Write in the active voice when possible.

(5) Avoid legal and highly technical business terminology.

(b) *Disclaimer.* Place the following statement in boldface type in the material sent to equity holders, either on the notice of meeting or the first page of the information statement:

The Farm Credit Administration has not determined if this information is accurate or complete. You should not rely on any statement to the contrary.

(c) *Summary.* The first part of the information statement must be a summary that concisely explains:

(1) Which stockholders have a right to vote on termination;

(2) The material changes the termination will cause to the rights of stockholders, borrowers, and other equity holders;

(3) The effect of those changes;

(4) The potential benefits and disadvantages of the termination;

(5) The right of certain stockholders to dissent and receive cash for their existing equities; and

(6) The proposed termination date.

(d) *Remaining requirements.* The rest of the information statement must contain the following:

(1) *Plan of termination.* Describe the plan of termination.

(2) *Benefits and disadvantages.* Provide the following information:

(i) An enumerated statement of the anticipated benefits and potential disadvantages of the termination;

(ii) An explanation of the preliminary exit fee estimate, with any adjustments we require, and estimated expenses of termination and organization of the successor institution; and

(iii) An explanation of the board's basis for recommending the termination.

(3) *Initial board of directors.* List the initial board of directors and senior officers for the successor institution, with a brief description of the business experience of each person, including principal occupation and employment during the past 5 years.

(4) *Bylaws and charter.* Summarize the provisions of the bylaws and charter of the successor institution that differ materially from your bylaws and charter. The summary must state:

(i) Whether the successor institution will require a borrower to hold an equity interest as a condition for having a loan; and

(ii) Whether the successor institution will require stockholders to do business with the institution.

(5) *Changes to equity*. Explain any changes in the nature of equity investments in the successor institution, such as changes in dividends, patronage, voting rights, preferences, retirement of equities, and liquidation priority. If equities protected under section 4.9A of the Act are outstanding, the information statement must state that the Act's protections will be extinguished on termination.

(6) *Effect of termination on statutory and regulatory rights.* Explain the effect of termination on rights granted by the Act and FCA regulations. You must explain the effect termination will have on borrower rights granted in the Act and subparts K, L, and N of part 614 of this chapter.

(7) *Loan refinancing by borrowers.* (i) State, as applicable, that borrowers may seek to refinance their loans with the System institution(s) that already serve, or will be permitted to serve, your territory. State that no System institution is obligated to refinance your loans.

(ii) If we have assigned your territory to another System institution before the information statement is mailed to equity holders, or if another System institution is already chartered to make the same type of loans you make in your territory, identify such institution(s) and provide the following information:

(A) The name, address, and telephone number of the institution; and

(B) An explanation of the institution's procedures to apply for refinancing.

(iii) If we have not assigned the territory before you mail the information statement, give the name, address and telephone number of the System institution specified by us and state that borrowers may contact the institution for information about loan refinancing.

(8) *Equity exchanges.* Explain the formula and procedure to exchange equity in your institution for equity in the successor institution.

(9) *Employment, retirement, and severance agreements.* Describe any employment agreement or arrangement between the successor institution and any of your senior officers (as defined in § 620.1 of this chapter) or directors. Describe any severance and retirement plans that cover your employees or directors and state the costs you expect to incur under the plans in connection with the termination.

(10) *Exit fee calculation.* Explain how the exit fee will be calculated.

(11) *New charter.* Describe the nature and type of financial institution the successor institution will be and any conditions of approval of the new chartering authority or regulator.

(12) *Differences in successor institution's programs and policies.* Summarize any differences between you and the successor institution on:

(i) Interest rates and fees;

(ii) Collection policies;

(iii) Services provided; and

(iv) Any other item that would affect a borrower's lending relationship with the successor institution, including whether a stockholder's ability to borrow from the institution will be restricted.

(13) *Capitalization*. Discuss expected capital requirements of the successor institution, and the amount and method of capitalization.

(14) *Sources of funding.* Explain the sources and manner of funding the successor institution's operations.

(15) *Contingent liabilities*. Describe how the successor institution will address any contingent liability it will assume from you.

(16) *Tax status*. Summarize the differences in tax status between your institution and the successor institution, and explain how the differences will affect stockholders.

(17) *Regulatory environment*. Describe briefly how the regulatory environment for the successor institution will differ from your current regulatory environment, and any effect on the cost of doing business or the value of stockholders' equity.

(18) *Dissenters' rights*. Explain which equity holders are entitled to dissenters' rights and what those rights are. The explanation must include the estimated liquidation value of the stock, procedures for exercising dissenters' rights, and a statement of when the rights may be exercised.

(19) *Financial information*. (i) Present the following financial data:

(A) A balance sheet and income statement for each of the 3 preceding fiscal years;

(B) A balance sheet as of a date within 90 days of the date you mail the termination application to us, presented on a comparative basis with the corresponding period of the previous 2 fiscal years;

(C) An income statement for the interim period between the end of the last fiscal year and the date of the balance sheet required by paragraph (d)(19)(i)(B) of this section, presented on a comparative basis with the corresponding period of the previous 2 fiscal years;

(D) A pro forma balance sheet of the successor institution presented as if termination had occurred as of the date of the most recent balance sheet presented in the statement; and

(E) A pro forma summary of earnings for the successor institution presented as if the termination had been effective at the beginning of the interim period between the end of the last fiscal year and the date of the balance sheet presented under paragraph (d)(19)(i)(D) of this section.

(ii) The format for the balance sheet and income statement must be the same as the format in your annual report and must contain appropriate footnote disclosures, including data on high-risk assets, other property owned, and allowance for losses.

(iii) The financial statements must include either:

(A) A statement signed by the chief executive officer and each board member that the various financial statements are unaudited, but have been prepared in all material respects in conformity with GAAP (except as otherwise disclosed) and are, to the best of each signer's knowledge, a fair and accurate presentation of the financial condition of the institution; or

(B) A signed opinion by an independent certified public accountant that the various financial statements have been examined in conformity with generally accepted auditing standards and included such tests of the accounting records and other such auditing procedures as were considered necessary in the circumstances, and, as of the date of the statements, present fairly the financial position of the institution in conformity with GAAP applied on a consistent basis, except as otherwise disclosed.

(20) *Subsequent financial events.* Describe any event after the date of the financial statements, but before the date you send the termination application to us, that would have a material impact on your financial condition or the condition of the successor institution.

(21) *Other subsequent events.* Describe any event after you send the termination application to us that could have a material impact on any information in the termination application.

(22) *Other material disclosures.* Describe any other material fact or circumstance that a stockholder would need to know to make an informed decision on the termination, or that is necessary to make the disclosures not misleading.

(23) *Ballot and proxy*. Include a ballot and proxy, with instructions on the purpose and authority for their use, and the proper method for the stockholder to sign the proxy.

(24) *Board of directors certification*. Include a certification signed by the entire board of directors as to the truth, accuracy, and completeness of the information contained in the

information statement. If any director refuses to sign the certification, the director must inform us of the reasons for refusing.

§ 611.1230 FCA review and approval.

(a) *FCA review period.* We will review a termination application and either give preliminary approval or disapprove the application no later than 60 days after we receive the application.

(b) *Reservation of right to disapprove termination.* In addition to any other reason for disapproval, we may disapprove a termination if we determine that the termination would have a material adverse effect on the ability of the remaining System institutions to fulfill their statutory purpose.

(c) *Conditions of final FCA approval.* We will give final approval to your termination application only if:

(1) Your stockholders vote in favor of termination in the termination vote and in any reconsideration vote;

(2) You give us executed copies of all contracts, agreements, and other documents submitted under § 611.1222;

(3) You have paid or made adequate provision for payment of debts and retirement of equities;

(4) A Federal or State chartering authority has granted a new charter to the successor institution;

(5) You deposit into escrow an amount equal to 110 percent of the estimated exit fee plus 110 percent of the estimated amount you must pay to retire equities of dissenting stockholders, as described in § 611.1255(c); and

(6) You have fulfilled any other condition of termination we have imposed.

(d) *Effective date of termination.* If we grant final approval, we will revoke your charter, and the termination will be effective on the last to occur of—

(1) Fulfillment of all conditions listed in paragraph (c) of this section;

(2) Your proposed termination date;

(3) Ninety (90) days after we receive the notice described in § 611.1240(e); and

(4) Fifteen (15) days after any reconsideration vote.

§ 611.1240 Voting record date and stockholder approval.

(a) *Stockholder meeting.* You must call the meeting by written notice in compliance with your bylaws. The stockholder meeting to vote on the termination must occur within 60 days of our preliminary approval (or, if we take no action, within 60 days of the end of our approval period).

(b) *Voting record date.* The voting record date may not be more than 70 days before the stockholders' meeting.

(c) *Information statement.* You must provide all equity holders with a notice of meeting and the information statement required by § 611.1222 at least 30 days before the stockholder vote.

(d) *Voting procedures.* The voting procedures must comply with § 611.330. You must have an independent third party count the ballots. If a voting stockholder notifies you of the stockholder's intent to exercise dissenters' rights, the tabulator must be able to verify to you that the stockholder voted against the termination. Otherwise, the votes of stockholders must remain confidential.

(e) *Notice to FCA and equity holders of voting results.* Within 10 days of the termination vote, you must send us a certified record of the results of the vote. You must notify all equity holders of the results within 30 days after the stockholder meeting. If the stockholders approve the termination, you must give the following information to equity holders:

(1) Stockholders who voted against termination and equity holders who were not entitled to vote have a right to dissent as provided in § 611.1280; and

(2) Voting stockholders have a right, under § 611.1245, to file a petition with the FCA for reconsideration within 35 days after the date you mail to them the notice of the results of the termination vote.

(f) *Requirement to notify new equity holders.* You must provide the information described in paragraph (e)(1) of this section to each person that becomes an equityholder after the termination vote and before termination.

§ 611.1245 Stockholder reconsideration.

(a) *Right to reconsider termination.* Voting stockholders have the right to reconsider their approval of the termination if a petition signed by 15 percent of the stockholders is filed with us within 35 days after you mail notices to stockholders that the termination vote was approved. If we determine that the petition complies with the requirements of section 7.9 of the Act, you must call a special stockholders' meeting to reconsider the vote. The meeting must occur within 60 days after the date on which you mailed to stockholders the results of the termination vote. If a majority of the stockholders voting, in person or by proxy, vote against the termination, the termination may not take place.

(b) *Stockholder list and expenses.* You must, at your expense, timely give stockholders who request it a list of the names and addresses of stockholders eligible to vote in the reconsideration vote. The petitioners must pay all other expenses for the petition. You must pay expenses that you incur for the reconsideration vote.

§ 611.1250 Preliminary exit fee estimate.

(a) *Preliminary exit fee estimate-terminating association.* You must provide a preliminary exit fee estimate to us when you submit the termination application. Calculate the preliminary exit fee estimate in the following order:

(1) Base your exit fee calculation on the average daily balances of assets and liabilities. Any amounts we refer to in this section are average daily balances unless we specify that they are not. Amounts that are not average daily balances will be referred to as ''dollar amount.''

(2) Determine account balances in conformity with GAAP and have them independently audited by a qualified public accountant, as defined in § 621.2(i) of this chapter, as of the quarterend immediately before the date you send us your termination application. We may, in our discretion, waive the audit requirement if an independent audit was performed as of a date less than 6 months before you submit the termination application.

(3) Calculate the 12-month balances of assets and liabilities as of the quarterend immediately before the date you send us your termination application.

(4) Make adjustments to assets as follows:

(i) Add back expenses you have incurred related to termination. Related expenses include, but are not limited to, legal services, accounting services, auditing, business planning, and application fees for the termination and reorganization.

(ii) Subtract the following:

(A) The dollar amount of your estimated payment (to your affiliated bank) related to FAC obligations; and

(B) The dollar amount of your estimated taxes due to the termination.

(iii) Adjust for the dollar amount of significant transactions you reasonably expect to occur between the quarterend before you file your termination application and termination. Examples of these transactions include, but are not limited to, gains or losses on the sale of assets, retirements of equity, loan repayments, and patronage distributions. Do not make adjustments for future expenses related to termination, such as severance or special retirement payments, or stock retirements to dissenting stockholders and Farm Credit institutions.

(5) Subtract from liabilities any liability that we treat as regulatory capital under the capital or collateral requirements in subparts H and K of part 615 of this chapter.

(6) Make any adjustments we require under paragraph (c) of this section.

(7) After making these adjustments to assets and liabilities, subtract liabilities from assets. This is your preliminary total capital for purposes of termination.

(8) Multiply assets as adjusted above by 6 percent, and subtract this amount from preliminary total capital. This is your preliminary exit fee estimate.

(b) *Preliminary exit fee estimate—terminating bank*. (1) Affiliated associations that are terminating with you must calculate their individual preliminary exit fee estimates as described in paragraph (a) of this section.

(2) Base your exit fee calculation on the average daily balances of assets and liabilities. Any amounts we refer to in this section are average daily balances unless we specify that they are not. Amounts that are not average daily balances will be referred to as ''dollar amount.''

(3) The account balances must be in conformity with GAAP and independently audited by a qualified public accountant, as defined in § 621.2(i) of this chapter, as of the quarterend immediately before the date you send us your termination application. We may, in our discretion, waive this requirement if an independent audit was performed as of a date less than 6 months before you submit the termination application.

(4) Calculate the 12-month balances of assets and liabilities as of the quarterend immediately before the date you send us your termination application.

(5) Make adjustments to assets and liabilities as follows:

(i) Add back to assets the following:

(A) Expenses you have incurred related to termination. Related expenses include, but are not limited to, legal services, accounting services, auditing, business planning, and application fees for the termination and reorganization; and

(B) Any specific allowance for losses, and a *pro rata* portion of any general allowance for loan losses on direct loans to an association that you do not expect to incur before or at termination.

(ii) Subtract from your assets and liabilities an amount equal to the average daily balances of your direct loans to your affiliated associations that are not terminating.

(iii) Subtract the following from assets:

(A) Equity investments in you held by non-terminating associations. A non-terminating association's investment consists of purchased equities, allocated equities, and a *pro rata* share of the bank's unallocated surplus;

(B) The dollar amount of your estimated termination payment to the FAC; and

(C) The dollar amount of estimated taxes due to the termination.

(iv) Subtract from liabilities any liability that we treat as regulatory capital under the capital or collateral requirements in subparts H and K of part 615 of this chapter.

(v) Adjust for the dollar amount of significant transactions you reasonably expect to occur between the quarterend before you file your termination application and termination. Examples of these transactions include, but are not limited to, retirements of equity, loan repayments, and patronage distributions. Do not make adjustments for future expenses related to termination, such as severance or special retirement payments, or stock retirements to dissenting stockholders and Farm Credit institutions.

(6) Add to assets the dollar amount of estimated termination payments of the terminating associations related to FAC obligations.

(7) Make any adjustments we require under paragraph (c) of this section.

(8) After the above adjustments, combine your balance sheet with the balance sheets of your terminating associations after they have made the adjustments required in paragraph (a) of this section. Subtract liabilities from assets. This is your preliminary total capital for purposes of termination.

(9) Multiply the assets of the combined balance sheet after the above adjustments by 6 percent. Subtract this amount from the preliminary total capital of the combined balance sheet. This is the preliminary exit fee estimate of the bank and terminating affiliated associations.

(10) Your preliminary exit fee estimate is the amount by which the exit fee for the combined entity exceeds the total of the individual preliminary exit fee estimates of your affiliated terminating associations.

(c) *Three-year look-back*. (1) We will review your transactions over the 3 years before the date of the termination resolution under § 611.1220. Our review will include, but not be limited to, the following:

(i) Additions to or subtractions from any allowance for losses;

(ii) Additions to assets or liabilities, or subtractions from assets or liabilities, due to transactions that are outside your ordinary course of business;

(iii) Dividends or patronage refunds exceeding your usual practices;

(iv) Changes in the institution's capital plan, or in implementing the plan, that increased or decreased the level of borrower investment;

(v) Contingent liabilities, such as loss-sharing obligations, that can be reasonably quantified; and

(vi) Assets that may be overvalued, undervalued or not recorded on your books.

(2) If we determine the account balances do not accurately show the value of your assets and liabilities, we will make any adjustments we deem necessary. In addition, we may require you to reverse the effect of a transaction if we determine that:

(i) You have retired capital outside the ordinary course of business,

(ii) You have taken any other actions unrelated to core business that have the effect of changing the exit fee, or

(iii) You incurred expenses related to termination prior to the 12-month average daily balance period on which the exit fee calculation is based.

(3) We may require you to make these adjustments to the exit fee estimate that is disclosed in the information statement and to the final exit fee calculation.

§ 611.1255 Exit fee calculation.

(a) *Final exit fee calculation-terminating association*. Calculate the final exit fee in the following order:

(1) Base your exit fee calculation on the average daily balances of assets and liabilities. Any amounts we refer to in this section are average daily balances unless we specify that they are not. Amounts that are not average daily balances will be referred to as ''dollar amount.''

(2) The account balances must be in conformity with GAAP and independently audited by a qualified public accountant, as defined in § 621.2(i) of this chapter, as of the termination date.

(3) Calculate the 12-month balances of assets and liabilities as of the termination date. Assume for this calculation that you have not paid or accrued the items described in paragraph (a)(4)(ii) of this section.

(4) Make adjustments to assets and liabilities as follows:

(i) Add back expenses related to termination. Related expenses include, but are not limited to, legal services, accounting services, auditing, business planning, payments of severance and special retirements, and application fees for the termination and reorganization.

(ii) Subtract from assets the following:

(A) The dollar amount of your termination payment (to your affiliated bank) related to FAC obligations;

(B) The taxes you will have to pay due to the termination; and

(C) Payments to retire the equities of dissenting stockholders and Farm Credit institutions at termination.

(iii) Subtract from liabilities any liability that we treat as regulatory capital under the capital or collateral requirements in subparts H and K of part 615 of this chapter.

(iv) Make the adjustments that we require under § 611.1250(c). For the final exit fee, we will review and may require additional adjustments for transactions between the date you adopted the termination resolution and the termination date.

(5) After making these adjustments to assets and liabilities, subtract liabilities from assets. This is your total capital for purposes of termination.

(6) Multiply assets by 6 percent, and subtract this amount from total capital. This is your final exit fee.

(b) *Final exit fee calculation-terminating bank*. (1) The individual exit fees of affiliated associations that are terminating with you must be calculated as described in paragraph (a) of this section.

(2) Base your exit fee calculation on the average daily balances of assets and liabilities. Any amounts we refer to in this section are average daily balances unless we specify that they are not. Amounts that are not average daily balances will be referred to as ''dollar amount.''

(3) The account balances must be in conformity with GAAP and independently audited by a qualified public accountant, as defined in § 621.2(i) of this chapter, as of the termination date.

(4) Calculate the 12-month balances of assets and total capital as of the termination date. Assume for this calculation that you have not paid or accrued the items described in paragraph (b)(5)(iii)(B), (C), and (D) of this section.

(5) Make adjustments to assets and liabilities as follows:

(i) Add back the following to your assets:

(A) Expenses you have incurred related to termination. Related expenses include, but are not limited to, legal services, accounting services, auditing, business planning, payments of severance and special retirements, and application fees for the termination and reorganization.

(B) The amount of the termination payments to you by the terminating associations related to FAC obligations.

(ii) Subtract from your assets and liabilities your direct loans to affiliated associations that were paid off or transferred in the 12-month period before termination.

(iii) Subtract from your assets the following:

(A) Equity investments held in you by affiliated associations that you retired or transferred during the 12 months before termination. A non-terminating association's investment consists of purchased equities, allocated equities, and a pro rata share of the bank's unallocated surplus;

(B) The dollar amount of your termination payment to the FAC;

(C) The dollar amount of taxes paid or accrued due to the termination; and

(D) Payments to retire the equities of dissenting stockholders and Farm Credit institutions.

(iv) Subtract from liabilities any liability that we treat as regulatory capital under the capital or collateral requirements in subparts H and K of part 615 of this chapter.

(v) Make the adjustments that we require under § 611.1250(c). For the final exit fee, we will review and may require additional adjustments for transactions between the date you adopted the termination resolution and the termination date.

(6) After the above adjustments, combine your balance sheet with the balance sheets of terminating associations after making the adjustments required in paragraph (a) of this section.

(7) Subtract combined liabilities from combined assets. This is the total capital of the combined balance sheet.

(8) Multiply the assets of the combined balance sheet after the above adjustments by 6 percent. Subtract this amount from the total capital of the combined balance sheet. This amount is the combined final exit fee for you and the terminating affiliated associations.

(9) Your final exit fee is the amount by which the combined final exit fee exceeds the total of the individual final exit fees of your affiliated terminating associations.

(c) *Payment of exit fee.* On the termination date, you must:

(1) Deposit into an escrow account acceptable to us and the FCSIC an amount equal to 110 percent of the preliminary exit fee estimate, adjusted to account for stock retirements to dissenting stockholders and Farm Credit institutions, and any other adjustments we require.

(2) Deposit into an escrow account acceptable to us an amount equal to 110 percent of the equity you must retire for dissenting stockholders and System institutions holding stock that would be entitled to a share of the remaining assets in a liquidation.

(d) *Pay-out of escrow*. Following the independent audit of the institution's account balances as of the termination date, we will determine the amount of the final exit fee and the amounts owed to stockholders to retire their equities. We will then direct the escrow agent to:

(1) Pay the exit fee to the Farm Credit Insurance Fund;

(2) Pay the amounts owed to dissenting stockholders; and

(3) Return any remaining amounts to the successor institution.

(e) *Additional payment*. If the amount held in escrow is not enough to pay the amounts under paragraph (d)(1) and (2) of this section, the successor institution must pay any remaining liability to the escrow agent for distribution to the appropriate parties. The termination application must include evidence that, after termination, the successor institution will pay any remaining amounts owed to dissenting stockholders.

§ 611.1260 Payment of debts and assessments—terminating association.

(a) *General rule*. If you are a terminating association, you must pay or make adequate provision for the payment of all outstanding debt obligations and assessments.

(b) *No OFI relationship*. If the successor institution will not become an OFI, you must either:

(1) Pay debts and assessments owed to your affiliated Farm Credit bank at termination; or

(2) With your affiliated Farm Credit bank's concurrence, arrange to pay any obligations or assessments to the bank after termination.

(c) *Obligations to other Farm Credit institutions*. You must pay or make adequate provision for payment of obligations to any Farm Credit institution (other than your affiliated bank) under any loss-sharing or other agreement.

(d) *FAC debt payments*. Before termination, you must pay future assessments and payment obligations to your affiliated Farm Credit bank to the extent required by subparagraphs (c)(5)(F) and (d)(1)(C)(v) of section 6.26 of the Act. The FAC must make the payment calculations this paragraph requires, subject to FCA approval, based on an appropriate discount rate. The appropriate discount rate is the non-interest bearing U.S. Treasury security

rate for securities with a maturity as near as possible to the period remaining until the terminating association's obligations under this paragraph would be due.

§ 611.1265 Retirement of equities—terminating association.

(a) *Safety and soundness restrictions.* Notwithstanding anything in these regulations to the contrary, we may prohibit a bank from retiring your equities if the retirement would cause the bank to fall below its regulatory capital requirements after retirement, or if we determine that the bank would be in an unsafe or unsound condition after retirement.

(b) *Retirement agreement.* Your affiliated bank may retire the purchased and allocated equities held by you in the bank according to the terms of the bank's capital revolvement plan or an agreement between you and the bank.

(c) *Retirement in absence of agreement.* Your affiliated bank must retire any equities not subject to an agreement or revolvement plan no later than when you or the successor institution pays off your loan from the bank.

(d) *No retirement of unallocated surplus.* When your bank retires equities you own in the bank, the bank must pay par or face value for purchased and allocated equities, less any impairment. The bank may not pay you any portion of its unallocated surplus.

(e) *Exclusion of equities from capital ratios.* If another Farm Credit institution makes an agreement to retire equities you hold in that institution after termination, we may require that institution to exclude part or all of those equities from assets and capital when the institution calculates its capital and net collateral ratios under subparts H and K of part 615 of this chapter.

(f) *Retirement of equities held by other Farm Credit institutions.* If a Farm Credit institution other than the affiliated bank owns equities you have issued, the other Farm Credit institution may require you to retire the equities on or before termination. The equities must be retired at book value revised to reflect the adjustments required for the final exit fee calculation in § 611.1255(a)(4)(iii).

§ 611.1270 Repayment of obligations—terminating bank.

(a) *General rule.* If you are a terminating bank, you must pay or make adequate provision for the payment of all outstanding debt obligations.

(b) *Satisfaction of primary liability.* After consulting with other Farm Credit banks, the Funding Corporation, and the FCSIC, you must pay or make adequate provision for payment of your primary liability on consolidated or Systemwide obligations in a method that we deem acceptable. Before we make a final decision on your proposal and as we deem necessary, we may consult with the other Farm Credit banks, the Funding Corporation, and the FCSIC.

(c) *Satisfaction of joint and several liability.* (1) You and the other Farm Credit banks must enter into an agreement covering obligations issued under section 4.2 of the Act and outstanding on the termination date. The Funding Corporation may, at its option, be a party to the agreement to the extent necessary to fulfill its duties with respect to financing and disclosure. The agreement, which is subject to our approval, must specify how you will make adequate provision for the payment of your joint and several liability to holders of obligations other than those obligations on which you are primarily liable.

(2) If you and the other Farm Credit banks are unable to reach agreement within 90 days before the proposed termination date, we will specify the manner in which you will make adequate provision for the payment of your joint and several liability and how we will make joint and several calls for those obligations outstanding on the termination date.

(3) Notwithstanding any other provision in these regulations, the successor institution will be jointly and severally liable for consolidated and Systemwide debt outstanding on the termination date (other than the obligations on which you are primarily liable), as well as for interest on individual obligations issued and outstanding on the termination date by other banks operating under the same title of the Act. The termination application must include evidence that the successor institution will continue to have this joint and several liability for consolidated and Systemwide debt.

(d) *Payment to the FAC.* (1) Before termination, you must pay to the FAC the amounts required by section 6.9(e)(3)(C)(ii) of the Act and by subparagraphs (c)(5)(E)(i) and (d)(1)(C)(iv) of section 6.26 of the Act. For purposes of this calculation, you must include your retail loan volume, the retail loan volume of the associations that are terminating with you, and the retail loan volume of the affiliated associations that continue their direct lending relationships with the successor institution.

(2) The FAC must make the present value estimation, subject to our approval, based on an appropriate discount rate. The appropriate discount rate is the non-interest bearing U.S. Treasury security rate for securities with a maturity as near as possible to the period remaining until the terminating association's obligations under this paragraph would be due.

§ 611.1275 Retirement of equities—terminating bank.

(a) *Retirement at option of equity holder.* System institutions that own your equities have the right to require you to retire the equities on the termination date.

(b) *Value of equity holders' interests.* For retirement purposes, the value of the equities held by System institutions is the book value on the termination date, revised to reflect the adjustments required for the final exit fee calculation in § 611.1255(b)(5)(iv).

(c) *Transfer of affiliated association's investment.* As an alternative to retirement, an affiliated association that is not terminating has the right to require you to transfer its investment in the bank, including a pro rata share of unallocated surplus, to another Farm Credit bank. The transfer of the investment, which must include purchased equities and allocated and unallocated surplus, must occur on or before the termination date.

§ 611.1280 Dissenters' rights.

(a) *Definition.* A dissenting stockholder is an equity holder (other than a System institution) in a terminating institution on the termination date who either:

(1) Was eligible to vote on the termination resolution and voted against termination;

(2) Was an equity holder on the voting record date but was not eligible to vote; or

(3) Became an equity holder after the voting record date.

(b) *Retirement at option of dissenting stockholder.* A dissenting stockholder may require a terminating institution to retire the stockholder's equity interest in the terminating institution.

(c) *Value of a dissenting stockholder's interest.* You must pay a dissenting stockholder according to the liquidation provisions in your bylaws, except that you must pay at least par or face value for eligible borrower stock (as defined in section 4.9A(d)(2) of the Act).

(d) *Calculation of interest of a dissenting stockholder entitled to the remaining assets.* Except as paragraph (f) of this section provides, when you retire equities of the class entitled to the remaining assets in a liquidation, you must pay the adjusted book value.

(1) The adjusted book value for a terminating association is the book

value on the termination date, after making the adjustments required by us for the final exit fee calculation in § 611.1255(a)(4), except for the subtraction of dissenting stockholders' equity described in § 611.1255 (a)(4)(ii)(C).

(2) The adjusted book value for a terminating bank is the book value on the termination date, after making the adjustments required by us for the final exit fee calculation in § 611.1255(b)(5)(iv), except for the subtraction of dissenting stockholders' equity described in § 611.1255(b)(5)(iii)(D).

(e) *Form of payment to a dissenting stockholder.* You must pay cash or make some other payment arrangement satisfactory to the dissenting stockholder for the stockholder's equities.

(f) *Payment to holders of special class of stock.* If you have adopted bylaws under § 611.1210(f), you must pay a dissenting stockholder who owns shares of the special class of stock an amount equal to the lower of the par (or face) or adjusted book value of such stock.

(g) *Notice to equity holders.* The notice to equity holders required in § 611.1240(e) must include a form for stockholders to send back to you, stating their intention to exercise dissenters' rights. The notice must contain the following information:

(1) A description of the rights of dissenting stockholders set forth in this section, and the approximate value per share that a dissenting stockholder can expect to receive. State whether the successor institution will require borrowers to be stockholders or whether it will require stockholders to be borrowers.

(2) A description of the current book and par value per share of each class of equities, and the expected book and market value of the stockholder's interest in the successor institution.

(3) A statement that a stockholder must return the enclosed form to you within 30 days if the stockholder chooses to exercise dissenters' rights.

(h) *Notice to subsequent equity holders.* Equity holders that acquire their equities after the termination vote must also receive the notice described in paragraph (g) of this section. You must give them at least 5 business days to decide whether to request retirement of their stock.

(i) *Reconsideration.* If a reconsideration vote is held and the termination is disapproved, the right of stockholders to exercise dissenters' rights is rescinded. If a reconsideration vote is held and the termination is approved, you must retire the equities of dissenting stockholders as if there had been no reconsideration vote.

§ 611.1285 Loan refinancing by borrowers.

(a) *Disclosure of credit and loan information.* At the request of a borrower seeking refinancing with another System institution before you terminate, you must give credit and loan information about the borrower to such institution.

(b) *No reassignment of territory.* If, at the termination date, we have not assigned your territory to another System institution, any System institution may lend in your territory, to the extent otherwise permitted by the Act and regulations.

§ 611.1290 Continuation of borrower rights.

You may not require a waiver of contractual borrower rights provisions as a condition of borrowing from and owning equity in the successor institution. Institutions that become OFIs on termination must comply with the applicable borrower rights provisions in the Act and subparts K, L, and N of part 614 of this chapter.

Dated: October 29, 1999.

Nan P. Mitchem,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 99–28732 Filed 11–4–99; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–112–AD]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. Models PA–46–310P and PA–46–350P Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise Airworthiness Directive (AD) 99–15–04, which currently requires calibrating the turbine inlet temperature system to assure the accuracy of the existing turbine inlet temperature indicator and wiring on all The New Piper Aircraft, Inc. (Piper) Models PA–46–310P and PA–46–350P airplanes, and repairing or replacing any turbine inlet temperature system that fails the calibration test. AD 99–15–04 also requires repetitively replacing the turbine inlet temperature probe on the Model PA–46–350P airplanes, and inserting a copy of the AD into the Pilot's Operating Handbook (POH) of certain airplanes. Since AD 99–15–04 became effective, the Federal Aviation Administration (FAA) has determined that the AD should not apply to airplanes where the factory installed turbine inlet temperature gauge and associated probe have been replaced through supplemental type certificate (STC). The proposed AD retains the actions of AD 99–15–04, and restricts the applicability accordingly. The actions specified by the proposed AD are intended to prevent improper engine operation caused by improperly calibrated turbine inlet temperature indicators or defective turbine inlet temperature probes, which could result in engine damage/failure with consequent loss of control of the airplane.

DATES: Comments must be received on or before January 4, 2000.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–112–AD, Room 506, 901 Locust, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Donald J. Young, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6079; facsimile: (770) 703–6097; e-mail address: ''Donald.Young@faa.gov''.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–CE–112–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–112–AD, Room 506, 901 Locust, Kansas City, Missouri 64106.

Discussion

AD 99–15–04, Amendment 39–11223 (64 FR 37669, July 13, 1999), currently requires the following:

—calibrating the turbine inlet temperature system to assure the accuracy of the existing turbine inlet temperature indicator and wiring for all Piper Models PA–46–310P and PA–46–350P airplanes, and repairing or replacing any turbine inlet temperature system that fails the calibration test;

—repetitively replacing the turbine inlet temperature probe on the Model PA–46–350P airplanes; and

—inserting a copy of this AD into the POH of airplanes that do not have a certain POH revision incorporated.

AD 99–15–04 was the result of field reports that indicated service accuracy problems with the existing turbine inlet temperature system on the affected airplanes.

The actions specified in AD 99–15–04 are intended to prevent improper engine operation caused by improperly calibrated turbine inlet temperature indicators or defective turbine inlet temperature probes, which could result in engine damage/failure with consequent loss of control of the airplane.

Actions Since Issuance of Previous Rule

Since AD 99–15–04 became effective, the FAA has determined that the AD should not apply to airplanes that do not have a Lewis or Transicoil Turbine Inlet Temperature Gauge and associated probe installed, where this system was replaced in accordance with a supplemental type certificate (STC). Relief from the AD is available only if the gauge and probe are *replaced* through STC and not if a second turbine inlet temperature gauge was installed while retaining the Lewis or Transicoil gauge and probe.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that:

—the actions of AD 99–15–04 should be revised to exclude those airplanes that do not have a Lewis or Transicoil turbine inlet temperature gauge and associated probe installed and the system was replaced through STC; and

—additional AD action should be taken to continue to prevent improper engine operation caused by improperly calibrated turbine inlet temperature indicators or defective turbine inlet temperature probes, which could result in engine damage/failure with consequent loss of control of the airplane.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Piper Models PA–46–310P and PA–46–350P airplanes of the same type design, the proposed AD would revise AD 99–15–04. The proposed AD would continue to require calibrating the turbine inlet temperature system to assure the accuracy of the existing turbine inlet temperature indicator and wiring on all affected airplanes, and repairing or replacing any turbine inlet temperature system that fails the calibration test. The proposed AD would also require repetitively replacing the turbine inlet temperature probe on the Model PA–46–350P airplanes, and inserting a copy of the AD into the POH of certain airplanes. Those airplanes that do not have a Lewis or Transicoil Turbine Inlet Temperature Gauge and associated probe installed, where this system was replaced in accordance with an STC, would be excluded from the AD. Relief from the AD is available only if the gauge and probe are *replaced* through STC and not if a second turbine inlet temperature gauge was installed while retaining the Lewis or Transicoil gauge and probe.

Cost Impact

The FAA estimates that 580 airplanes in the U.S. registry would be affected by the proposed calibration, that it would take approximately 4 workhours per airplane to accomplish the proposed calibration, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the proposed calibration on U.S. operators is estimated to be $139,200, or $240 per airplane.

The FAA estimates that it would take approximately 1 workhour per airplane to accomplish the proposed initial turbine inlet temperature probe replacement, and that the average labor rate is approximately $60 an hour. Parts cost approximately $518. Based on these figures, the total cost impact of the proposed replacement on U.S. operators is estimated to be $335,240, or $578 per airplane. These figures only take into account the initial replacement and do not take into account the cost of subsequent repetitive replacements. The FAA has no way of determining the number of replacements each owner/operator will incur over the life of the affected airplanes.

The cost impact of the proposed AD is the same as that specified in AD 99–15–04. The only difference between AD 99–15–04 and the proposed AD is the exemption of certain airplanes from the proposed AD if they have a certain turbine inlet temperature gauge and associated probe installed.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the

location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 99–15–04, Amendment 39–11223 (64 FR 37699, July 13, 1999), and adding a new AD to read as follows:

The New Piper Aircraft, Inc.: Docket No. 98–CE–112–AD; Revises AD 99–15–04, Amendment 39–11223.

Applicability: Models PA–46–310P and PA–46–350P airplanes, all serial numbers, certificated in any category. (See paragraph (f) of this AD for configurations that would exclude airplanes from the applicability of this AD).

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (i) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent improper engine operation caused by improperly calibrated turbine inlet temperature indicators or defective turbine inlet temperature probes, which could result in engine damage/failure with consequent loss of control of the airplane, accomplish the following:

(a) For all affected airplanes (Models PA–46–310P and PA–46–350P), within the next 100 hours time-in-service (TIS) after August 31, 1999 (the effective date of AD 99–15–04), accomplish the Turbine Inlet Temperature Gauge and Probe Cleaning and Inspection, and Turbine Inlet Temperature System Calibration, as follows:

(1) *For Model PA–46–310P airplanes:* Perform the Turbine Inlet Temperature Gauge and Probe Cleaning and Inspection in accordance with the PA–46–310P/350P Maintenance Manual, Chapter 77–20–00 (section A.(1)(d), pages 1 and 2); and accomplish the Turbine Inlet Temperature System Calibration in accordance with the PA–46–310P/350P Maintenance Manual, Chapter 77–20–00 (pages 3 and 4); and

(2) *For Model PA–46–350P airplanes, serial numbers 4622001 through 4622200 and 4636001 through 4636020:* Perform the Turbine Inlet Temperature Gauge and Probe Cleaning and Inspection in accordance with the PA–46–350P Maintenance Manual, Chapter 77–20–00 (section 1.C, page 1); and accomplish the Turbine Inlet Temperature System Calibration in accordance with the PA–46–350P Maintenance Manual, Chapter 77–20–00 (section 1.I., pages 4 through 7).

(3) *For Model PA–46–350P airplanes, all serial numbers beginning with 4636021:* Perform the Turbine Inlet Temperature Gauge and Probe Cleaning and Inspection in accordance with the PA–46–350P Maintenance Manual, Chapter 77–20–00 (section 1.C, page 1).

Note 2: Operators of the Model PA–46–350P airplanes with over 150 hours TIS on the currently installed turbine inlet temperature probe will have to replace the probe as required in paragraph (c) of this AD. In this case, the operator may want to accomplish the replacement prior to the Turbine Inlet Temperature Gauge and Probe Cleaning and Inspection, and Turbine Inlet Temperature System Calibration.

(b) For all affected airplanes (Models PA–46–310P and PA–46–350P), if the results of paragraph (a) of this AD cannot be met (the turbine inlet temperature system indicator cannot be calibrated or the turbine inlet temperature probe fails the inspection), prior to further flight, repair or replace the failed parts with serviceable parts of the following part numbers:

(1) Lewis Turbine Inlet Temperature Analog Indicator, part number 471–008.

(2) Lewis Turbine Inlet Temperature Digital Indicator, part number 548–811.

(3) Turbine Inlet Temperature Probe, part number 471–009 for the Model PA–46–310P airplanes and part number 481–389 or 481–392 for the Model PA–46–350P airplanes.

(4) Only the Lewis Turbine Inlet Temperature Analog Indicator (referenced in paragraph (b)(1) of this AD) has a zero adjustment screw. The Lewis Turbine Inlet Temperature Digital Indicator (referenced in paragraph (b)(2) of this AD) must be returned to the factory for adjustment or replacement.

(c) For the Model PA–46–350P airplanes, upon accumulating 250 hours TIS on the currently installed turbine inlet temperature probe or within the next 100 hours TIS after August 31, 1999 (the effective date of AD 99–15–04), whichever occurs later, and thereafter at intervals not to exceed 250 hours TIS: replace the part number 481–392 turbine inlet temperature probe with a new part number 481–389 or 481–392 probe.

(d) For the operators of the airplanes presented in paragraphs (d)(1) and (d)(2) of this AD, within the next 100 hours TIS after August 31, 1999 (the effective date of AD 99–15–04), incorporate the emergency operation procedures specified in paragraph (e) of this AD for when a turbine inlet temperature system failure occurs while in-flight by inserting a copy of this AD into the applicable Pilots' Operating Handbook/Airplane Flight Manual (AFM/POH):

(1) For all operators of the Model PA–46–310P airplanes that do not have the applicable POH revision incorporated as follows:

POH	Revision/Date	Affected serial numbers
VB–1200	16/March 19, 1999	46–8408001 through 46–8608067 and 4608001 through 4608007.
VB–1300	13/February 25, 1999	4608008 through 4608140.

(2) For those operators of the Model PA–46–350P airplanes that do not have the applicable POH revision incorporated as follows:

POH	Revision/Date	Affected serial numbers
VB–1332	16/November 14, 1997	4622001 through 4622200.
VB–1609	1/November 21, 1997	463001 through 4636020.
VB–1602	1/November 28, 1997	4636021 through 4636131.
VB–1446	New/December 3, 1997	4636132 through 4636195.
VB–1710	New/February 23, 1999	All serial numbers beginning with 4636196.

(e) The following are emergency operation procedures for when a turbine inlet temperature system failure occurs while in-flight:

(1) *For Model PA–46–310P airplanes:*

(i) If the turbine inlet temperature indication fails during takeoff, climb, descent, or landing, maintain FULL RICH mixture to assure adequate fuel flow for engine cooling.

(ii) If the turbine inlet temperature indication fails after cruise power has been set, maintain cruise power setting and lean to 6 gallons per hour (GPH) fuel flow above that specified in the Power Setting Table in Section 5 of the AFM/POH. Continually monitor engine cylinder head and oil temperatures to avoid exceeding temperature limits.

(2) *For Model PA–46–350P airplanes:*

(i) If the turbine inlet temperature indication fails during takeoff, climb, descent or landing, set power per the POH Section 5 Power Setting Table and then lean to the approximate POH Power Setting Table fuel flow plus 4 GPH.

(ii) If the turbine inlet temperature indication fails after cruise power has been set, maintain the power setting and increase indicated fuel flow by 1 GPH. Continually monitor engine cylinder head and oil temperatures to avoid exceeding temperature limits.

(f) This AD does not apply to any airplane that does not have a Lewis or Transicoil Turbine Inlet Temperature Gauge and associated probe installed, where this system was replaced in accordance with a supplemental type certificate (STC). Relief from the AD is available only if the gauge and probe are *replaced* through STC and not if a second turbine inlet temperature gauge was installed while retaining the Lewis or Transicoil gauge and probe.

(g) Inserting a copy of this AD into the applicable POH/AFM as required by paragraph (d) of this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with paragraph (d) of this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(i) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

(2) Alternative methods of compliance approved in accordance with AD 99–15–04 are considered approved as alternative methods of compliance for this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(j) Service information that applies to this AD may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information may also be examined at the Federal FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–112–AD, Room 506, 901 Locust, Kansas City, Missouri 64106.

(k) This amendment revises AD 99–15–04, Amendment 39–11223.

Issued in Kansas City, Missouri, on October 27, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–29057 Filed 11–4–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–231–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 747 series airplanes. This proposal would require repetitive inspections to detect cracking of the forward and aft inner chords and the splice fitting of the forward inner chord of the station 2598 bulkhead, and repair, if necessary. This proposal is prompted by reports of fatigue cracking found in those areas. The actions specified by the proposed AD are intended to detect and correct such cracking, which could result in reduced structural capability of the bulkhead and the inability of the structure to carry horizontal stabilizer flight loads.

DATES: Comments must be received by December 20, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–231–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Bob Breneman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2776; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–231–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–231–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that fatigue cracking has been detected in the forward and aft inner chords and the splice fitting of the forward inner chord of the station 2598 bulkhead on Boeing Model 747 series airplanes. The horizontal stabilizer hinge fittings are attached to the station

2598 bulkhead. The bulkhead includes a large cutout that gives access to the rear spar of the horizontal stabilizer. The reports indicate that the cracking was detected around the upper corners of the cutout. In addition, a recent report indicates that a fatigue crack was detected in the station 2598 splice fitting where it attaches to the upper and lower sections of the bulkhead forward inner chord. Such cracking, if not detected and corrected, could result in reduced structural capability of the bulkhead and the inability of the structure to carry horizontal stabilizer flight loads.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998, which describes procedures for a one-time high frequency eddy current (HFEC) inspection and repetitive detailed visual inspections to detect cracking of the forward and aft inner chords of the station 2598 bulkhead, and repair, if necessary.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time HFEC inspection and repetitive detailed visual inspections to detect cracking of the forward and aft inner chords of the station 2598 bulkhead, and repair, if necessary. These actions would be required to be accomplished in accordance with the alert service bulletin described previously, except as discussed below. The proposed AD also would require a one-time HFEC inspection and repetitive detailed visual inspections to detect cracking of the splice fitting of the forward inner chord of the station 2598 bulkhead. Such inspections of the splice fitting of the forward inner chord would be required to be accomplished in accordance with procedures included in paragraphs (a)(2) and (b)(2) of this AD. If any cracking is found during such inspections, repair would be required to be accomplished in accordance with a method approved by the FAA, as specified in paragraph (d) of this proposed AD.

Differences Between Proposed Rule and Alert Service Bulletin

Operators should note that, although the alert service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposed AD would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

Operators also should note that, as described previously, this proposed AD would require a one-time HFEC inspection and repetitive detailed visual inspections to detect cracking of the splice fitting of the forward inner chord of the station 2598 bulkhead. The alert service bulletin does not specify such inspections of the splice fitting. Also, though this inspection area is shown in Figure 2, Detail A, and Figure 3, Detail A, of the alert service bulletin, the inspection area is not highlighted in those figures.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Cost Impact

There are approximately 1,301 airplanes of the affected design in the worldwide fleet. The FAA estimates that 260 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 2 work hours per airplane to accomplish the proposed HFEC inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be $31,200, or $120 per airplane.

It would take approximately 2 work hours per airplane to accomplish the proposed detailed visual inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspections on U.S. operators is estimated to be $31,200, or $120 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 99–NM–231–AD.

Applicability: All Model 747 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not

been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking of the forward and aft inner chords and the splice fitting of the forward inner chord of the station 2598 bulkhead, which could result in reduced structural capability of the bulkhead and the inability of the structure to carry horizontal stabilizer flight loads, accomplish the following:

Initial Inspection

(a) Prior to the accumulation of 13,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later: Accomplish the requirements specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Perform a high frequency eddy current inspection (HFEC) to detect cracking of the forward and aft inner chords of the station 2598 bulkhead, in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998.

(2) Perform an HFEC inspection to detect cracking of the splice fitting along the upper and lower attachment to the forward inner chord of the station 2598 bulkhead, as shown in Figure 2, Detail A, of Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998.

Note 2: Operators should note that the inspection area specified in paragraph (a)(2) of this AD is NOT highlighted in Figure 2, Detail A, of Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998.

Repetitive Inspections

(b) Within 3,000 flight cycles after accomplishment of the inspections required by paragraph (a) of this AD: Accomplish the inspections specified in paragraphs (b)(1) and (b)(2) of this AD. Repeat the inspection thereafter at intervals not to exceed 3,000 flight cycles.

(1) Perform a detailed visual inspection to detect cracking of the forward and aft inner chords of the station 2598 bulkhead, in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998.

Note 3: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(2) Perform a detailed visual inspection to detect cracking of the splice fitting along the upper and lower attachment to the forward inner chord of the station 2598 bulkhead, as shown in Figure 3, Detail A, of Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998.

Note 4: Operators should note that the inspection area specified in paragraph (b)(2) of this AD is NOT highlighted in Figure 3, Detail A, of Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998.

Repair

(c) If any cracking is detected during the inspections required by paragraph (a)(1) or (b)(1) of this AD, prior to further flight, repair in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998, except as provided by paragraph (d) of this AD.

(d) If any cracking is detected during the inspections required by paragraph (a)(2) or (b)(2) of this AD, or where the alert service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, or a Boeing DER, as required by this paragraph, the approval letter must specifically reference this AD.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished. Issued in Renton, Washington, on November 1, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–29056 Filed 11–4–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AWA–10]

RIN 2120–AA66

Proposed Revocation of the El Toro Marine Corps Air Station (MCAS) Class C Airspace Area, and Revision of the Santa Ana Class C Airspace Area; California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to revoke the El Toro MCAS, CA, Class C airspace area and to remove reference to the El Toro MCAS Class C airspace area in the description of the Santa Ana, CA, Class C airspace area. The FAA is taking this action due to the closure of the El Toro MCAS air traffic control (ATC) facilities. This proposal would not change the dimensions, operating requirements, or flight paths of the current Santa Ana Class C airspace area.

DATES: Comments must be received on or before December 23, 1999.

ADDRESSES: Send comments on the proposal in triplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–200, Airspace Docket No. 99–AWA–10, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the following Internet address: nprmcmts@mail.hq.faa.gov. The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the FAA Western-Pacific Regional Office.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions

presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–AWA–10.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will also be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register**'s electronic bulletin board service (telephone: 202–512–1661) using a modem and suitable communications software.

Internet users may reach the FAA's web page at http://www.faa.gov or the **Federal Register**'s webpage at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, Attention: Airspace and Rules Division, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the Federal Aviation Administration, Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Effective July 2, 1999, the United States Marine Corps permanently terminated ATC service at El Toro MCAS as a result of the Base Realignment and Closure (BRAC) recommendations and decisions. Therefore, there is no longer a requirement to retain a Class C airspace area at El Toro MCAS.

The Proposal

This action proposes to amend 14 CFR part 71 by revoking the El Toro MCAS Class C airspace area. The proposed removal of the airspace area is necessary due to the closure of the ATC facilities at El Toro MCAS. The current Class C airspace area would revert to Class E controlled airspace. This proposed action also would revise the Santa Ana Class C airspace area by removing references to El Toro MCAS from the description. These proposed actions revoke the Class C airspace designation and revise the description for the Santa Ana Class C airspace area, but do not change the dimensions, operating requirements, or flight patterns in the area.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed action: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The coordinates for this airspace docket are based on North American Datum 83. Class C airspace designations are published in paragraph 4000 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class C airspace designation listed in this document would be removed from the Order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 4000 Subpart C—Class C Airspace.

* * * * *

AWP CA C El Toro MCAS, CA [Removed]

* * * * *

AWP CA C Santa Ana, CA [Revised]

John Wayne Airport/Orange County, CA
(lat. 33°40′32″ N., long. 117°52′06″ W.)

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of the John Wayne Airport/Orange County excluding that airspace east of a line between lat. 33°44′12″ N., long. 117°48′00″ W.; and lat. 33°36′55″ N., long. 117°47′58″ W.; and that airspace extending upward from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the John Wayne Airport/Orange County, west of a line from lat. 33°36′55″ N., long. 117°47′58″ W.; to lat. 33°31′09″ N., long. 117°47′56″ W. clockwise to the 175° bearing from John Wayne Airport/Orange County; and that airspace extending upward from 1,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the 175° bearing clockwise to the 201° bearing from John Wayne Airport/Orange County; and that airspace extending upward from 3,500 feet MSL to and including 5,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the 201° bearing from the airport to the shoreline, excluding that airspace west of a line from the 351° bearing from John Wayne Airport/Orange County to the 251° bearing from John Wayne Airport/Orange County; and that airspace extending upward from 2,500 feet MSL to and including 5,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the shoreline to the San Diego Freeway (I–405), excluding that airspace west of a line from the 351° bearing from John Wayne Airport/Orange County to the 251° bearing from John Wayne Airport/Orange County; and that airspace extending

upward from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the San Diego Freeway clockwise to the 360° bearing from the John Wayne Airport/Orange County, excluding that airspace west of a line from the 351° bearing from John Wayne Airport/Orange County to the 251° bearing from John Wayne Airport/Orange County; and that airspace extending upward from 2,000 feet MSL to and including 4,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the 360° bearing from the John Wayne Airport/Orange County clockwise to a line from lat. 33°49′58″ N., long. 117°48′02″ W.; to lat. 33°44′12″ N., long. 117°48′00″ W. This Class C airspace area is effective during the specific days and hours of operation of the Orange County Tower and Approach Control as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Washington, DC on November 1, 1999.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 99–29041 Filed 11–4–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM99–12–000]

Designation of Electric Rate Schedule Sheets October 28, 1999.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to require prospectively the inclusion of a proposed designation for all rate schedule sheets filed with the Commission by public utilities. The proposed rule would streamline rate schedule sheet designation procedures for the Commission and the electric industry. The proposed rule also would conform public utility tariff filing procedures with those for interstate natural gas and oil pipelines. This revision to the regulations is necessary to accommodate the movement toward an integrated energy industry and to facilitate the development of common standards for the electronic filing of all electric, gas, and oil rate schedule sheets.

DATES: Comments are due December 6, 1999.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

H. Keith Pierce (Technical Information), Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208–0525.

Julia Tuzun (Technical Information), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208–0256.

Connie Caldwell (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208–2027.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, NE, Room 2A, Washington, DC 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission from November 14, 1994, to the present. CIPS can be accessed via Internet through FERC's Home Page (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. Documents will be available on CIPS on ASCII and WordPerfect 8.0. user assistance is available at 202–208–2474 or by E-mail to cips.master@ferc.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Home Page using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to rimsmaster@ferc.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc. is located in the Public Reference Room at 888 First Street, NE, Washington, DC 20426.

The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to require prospectively the inclusion of a proposed designation [1] on all rate schedule sheets filed with the Commission by public utilities. The proposed rule would streamline rate schedule sheet designation procedures for the Commission and the electric industry.

The proposed rule also would conform the procedures for identifying public utility tariff filings with those for interstate natural gas and oil pipelines. This revision to the regulations is necessary to accommodate the movement toward an integrated energy industry and to facilitate the development of common standards for the electronic filing of all electric, gas, and oil rate schedule sheets. However, it has not been determined what the common standards for electronic filing will be or the format that will be followed. For example, it has not been decided whether a page-based or non-page-based system would be most effective. These determinations will be developed by the Commission as it moves forward with electronic filing.

I. Background

Section 205(c) of the Federal Power Act (FPA) [2] and section 4(c) of the Natural Gas Act [3] provide that the Commission is charged with the responsibility to keep schedules showing all rates and charges, in such form as the Commission may designate, for any jurisdictional transmission or sale of electricity and for any jurisdictional transportation or sale of natural gas, respectively. Similarly, section 6 of the Interstate Commerce Act (ICA) [4] requires that the rate schedules for oil pipelines be published, filed, and posted in the form and manner prescribed by the Commission. Parts 35, 154, and 341 of the Commission's Rules and Regulations implement these sections of the FPA, NGA, and ICA, respectively.[5]

Pursuant to current Commission regulations under Parts 154 and 341, gas and oil pipelines are required to include proposed pagination on all tariff sheets filed with the Commission; the proposed pagination must be unique to the pertinent tariff sheets, i.e., the proposed pagination is newly created and has never been used previously. Additionally, both Parts 154 and 341

[1] For purposes here, ''designation'' refers to both the practice of assigning rate schedule numbers and sheet designations for purposes of identification and document tracking.

[2] 16 USC 824d.

[3] 15 USC 717(c).

[4] 49 USC app. 1.

[5] 18 CFR Part 35; 18 CFR Part 154; 18 CFR Part 341.

require that the proposed pagination convey information as to whether the tariff sheet being filed contains changes proposed by the pipeline or is filed in compliance with a Commission order. Gas or oil tariff sheets filed without pagination or incorrect pagination are deemed incomplete, and may be rejected as such.[6]

With regard to public utility rate schedules, Part 35 of the Commission's regulations provides that every rate schedule filing under the FPA ''will be numbered by the Commission and the filing public utility advised of the Rate Schedule FERC number.'' [7] Therefore, pursuant to that regulation, the Commission routinely designates each rate schedule filed by a public utility and informs the utility of the designation.

II. Discussion

The proposed rule would streamline tariff sheet designation procedures for the Commission and the electric industry. Under current procedures, a significant amount of staff time is required to assign designations for public utility tariff sheets.[8] Staff is required to physically research underlying tariff sheets and proceedings to identify the status of the superseded tariff sheet (effective without suspension, suspended, or effective under suspension) and the nature of the proposed tariff sheet (a proposed rate change or a compliance filing) in order to establish the proper designation. This information must then be conveyed to the utility and the public through issuance of Commission orders.

Alternatively, under the proposed designation procedure, staff would only need to confirm the appropriateness of the proposed pagination. Commission orders, including delegated orders, would not have to always list tariff sheets individually, since the filings and the tariff sheets would be cross-referenced electronically. This would simplify the identification of any specific tariff sheet for any purpose from the time of filing. Also, the proposed designation procedure would allow tariff sheets to be more easily kept up-to-date, with superseded sheets archived for future reference.

Filing requirements for tariff sheets for the electric, gas, and oil industries have evolved independently over time. However, with the movement toward an integrated energy industry it now makes sense to have a common standard for all tariff sheets filed with the Commission. Further, as the Commission increases its use of electronic media for filing, storage, retrieval, and tracking of information and documents, greater uniformity in filing procedures, wherever practical, will greatly expedite and simplify this conversion to electronic media. Conforming the requirements for public utilities, interstate natural gas pipelines, and oil pipelines will position the Commission and the affected industries for a smooth transition to filing tariff sheets electronically and having those sheets tracked and archived electronically. Designing the electronic format for these filings will be greatly simplified as well if all tariff sheets are filed uniformly.

In terms of the transition from the existing designation procedure to the proposed designation procedure, the Commission believes that the transition to the proposed designation system would occur most smoothly if currently effective and paginated/designated tariff sheets remain as filed; however, if a change is proposed in an existing tariff or rate schedule, the entire tariff or rate schedule must be re-filed according to the new system. In this way, as tariff sheets are replaced over time, the old designations will disappear and the new system would be implemented in an orderly and efficient manner. Further, changes would be prospective only, alleviating any need to retroactively alter, modify, or re-file the tariff sheets currently on file.

''Tariff, Rate Schedule and Service Agreement Pagination Guidelines'' have been developed and are attached hereto as an appendix. The guidelines offer definitions and examples to assist during the period of transition. The guidelines also provide the name and telephone number of a staff person who can answer questions and provide additional guidance.

III. Information Collection Statement

The following collection of information contained in this proposed rule is being submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the Paperwork Reduction Act of 1995.[9] FERC identifies the information provided under Part 35 as FERC–516. The additional reporting burden to implement this proposed rule is as follows:

Data collection	Number of respondents	Number of responses	Hours per response	Total annual hours
FERC–516	858	3.42	2.83	8,320

Total Additional Annual Hours for Collection (Reporting+Recordkeeping, if appropriate)=8,320.

The total annual reporting burden for FERC–516 under the current regulations is 536,800 hours. Currently, the Commission devotes approximately 8,320 hours per year to assign tariff designations to an estimated 2,934 filings per year. The proposed change will require the utilities to perform the designation duties currently performed by Commission staff. There will, therefore, be an increase in reporting burden from 536,800 hours to 545,120 hours as utilities adopt the proposed designation system for changes proposed in existing tariffs or rate schedules and/or if an entire tariff or rate schedule must be re-filed.[10]

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost for all respondents to be:

Annualized Capital/Startup Costs $205,424 (tariff designations).

Annualized Costs (Operations & Maintenance): $28,359,815. (tariff + rate schedule filings).

Total Annualized Costs: $28,565,239. (tariff designations + rate schedule filings).

The OMB regulations require OMB to approve certain information collection

[6] *See* 18 CFR 154.5; 18 CFR 341.11.

[7] 18 CFR 35.9.

[8] For the convenience of the reader, unless the context otherwise indicates, we will use the term ''tariff sheet'' in the remainder of the narrative discussion when referring to public utility rate schedules.

[9] 44 U.S.C. 3507(d).

[10] The proposed change may have even less impact on utilities, as the Commission assumes utilities currently maintain an informal record keeping system for proposed tariff sheets pending a final designation from the Commission. This informal system will no longer be necessary to maintain, as tariff sheet designations will be assigned by the utilities prior to filing the tariff sheets.

requirements imposed by agency rule.[11] Accordingly, pursuant to OMB regulations the Commission is providing notice of its proposed information collection to OMB.

Title: FERC–516, Electric Rate Schedule Filings.

Action: Proposed Data Collection.

OMB Control No.: 1902–0096 The respondent shall not be penalized for failure to respond to this collection of information unless the collection of information displays a valid OMB control number.

Respondents: Business or other for profit, including small businesses.

Frequency of Responses: On Occasion.

Necessity of Information: The proposed rule revises the requirements contained in 18 CFR Part 35.

Internal Review: The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements. Section 205 of the Federal Power Act (FPA) (16 U.S.C. 824d) requires that rates, terms, and conditions for jurisdictional service be filed with the Commission. In addition, the Commission uses the information provided to make determinations as to whether the rates, terms and conditions of jurisdictional service are unjust, unreasonable, or unjustly discriminatory or preferential and to prescribe the just and reasonable rates, terms and conditions. Failure to issue these requirements would mean the Commission is not meeting its statutory obligations under Sections 205 and 206 of the FPA (16 U.S.C. 824d–e). These requirements also conform to the Commission's plan for the efficient collection, communication, and management of information for the electric industry.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, [Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202) 208–1415, fax: (202) 208–2425, email: mike.miller@ferc.fed.us].

For submitting comments concerning the collection of information and the associated burden estimate, please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503. [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–3087, fax: (202) 395–7285.

[11] 5 CFR 1320.11.

IV. Environmental Statement

The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment. The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment. The actions proposed to be taken here fall within categorical exclusions found in 18 CFR 380.4(a)(1) and (15). Therefore, environmental considerations are unnecessary.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires rulemakings to contain either a description and analysis of the effect that the proposed rule will have on small entities or a certification that the rule will not have a significant economic effect on a substantial number of small entities. Most filing entities do not fall within the RFA's definition of a small entity.[12] Therefore, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VI. Comment Procedures

The Commission invites interested persons to submit written comments on this proposal.

An original and 14 copies of such comments must be received by the Commission before 5:00 p.m. December 6, 1999. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426 and should refer to Docket No. RM99–12–000.

In addition to filing paper copies, the Commission encourages the filing of comments either on computer diskette or via Internet E-Mail. Comments may be filed in the following formats: WordPerfect 8.0 or below, MS Word Office 97 or lower version, or ASCII format.

For diskette filing, include the following information on the diskette label: Docket No. RM99–12–000; the name of the filing entity; the software and version used to create the file; and the name and telephone number of a contact person.

For Internet E-Mail submittal, comments should be submitted to ''comment.rm@ferc.fed.us'' in the following format. On the subject line, specify Docket No. RM99–12–000. In the body of the E-Mail message, include the name of the filing entity; the software and version used to create the file, and the name and telephone number of the contact person. Attach the comment to the E-Mail in one of the formats specified above. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt. Questions on electronic filing should be directed to Brooks Carter at 202–501–8145, E-Mail address brooks.carter@ferc.fed.us.

Commenters should take note that, until the Commission amends its rules and regulations, the paper copy of the filing remains the official copy of the document submitted. Therefore, any discrepancies between the paper filing and the electronic filing or the diskette will be resolved by reference to the paper filing.

All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference room at 888 First Street, NE, Washington, DC 20426, during regular business hours. Additionally, comments may be viewed, printed, or downloaded remotely via the Internet through FERC's Home Page using the RIMS or CIPS links. RIMS contains all comments but only those comments submitted in electronic format are available on CIPS. User assistance is available at 202–208–2222, or by E-Mail to rimsmaster@ferc.fed.us.

[12] See 5 U.S.C. 601(3).

List of Subjects in 18 CFR 35

Electric power rates, Electric utilities, Electricity, Reporting and recordkeeping requirements.

By direction of the Commission.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission proposes to amend part 35, Chapter I, Title 18, *Code of Federal Regulations*, as follows.

PART 35—FILING OF RATE SCHEDULES

1. The authority citation for Part 35 continues to read as follows:

Authority: 16 U.S.C. 791–a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 710–7352.

2. Section 35.5 is amended by designating the existing text as paragraph (a) and by adding a paragraph (b) to read as follows:

§ 35.5 Rejection of material submitted for filing.

(a) The Secretary, pursuant to the Commission's Rules of Practice and

Procedure and delegation of Commission authority, shall reject any material submitted for filing with the Commission which patently fails to substantially comply with the applicable requirements set forth in this Part, or the Commission's Rules of Practice and Procedure.

(b) A rate filing that fails to comply with this Part may be rejected by the Director of the Office of Electric Power Regulation pursuant to the authority delegated to the Director in § 375.308(a)(3) of this chapter.

3. Section 35.9 is revised to read as follows:

§ 35.9 Identification and numbering of tariffs and rate schedules (including service agreements).

(a) All tariffs and rate schedules (including service agreements) must be numbered sequentially from the beginning of that tariff or rate schedule.

(b) All tariffs and rate schedules (including service agreements) must have the following information placed in the margins of each sheet:

(1) *Identification.* At the top left of each page, the exact name of the company must be shown, under which must be set forth the words ''FERC Electric Tariff'' or ''FERC Electric Rate Schedule No.'' together with volume identification.

(2) *Numbering of sheets.* Except for the title page, at the top right, the sheet number must appear as ''(Original or Revised) Sheet No. (number).'' All sheets must be numbered in the manner set forth in the Tariff, Rate Schedule and Service Agreement Pagination Guidelines, as modified from time to time.

(3) *Issuing officer and issue date.* On the lower left must be placed ''Issued by:'' followed by the name and title of the person authorized to issue the sheet. Immediately below must be placed ''Issued on'' followed by the date of issue.

(4) *Effective date.* On the lower right must be placed ''Effective:'' followed by the specific effective date proposed by the company.

(5) *Filings made to comply with Commission orders.* Tariffs and rate schedules (including service agreements) filed to comply with Commission orders must carry the following notation in the bottom margin: ''Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. (number), issued (date), (FERC Reports citation).''

§ 35.18 [Removed and Reserved]

4. Section 35.18 is removed and reserved.

Note: This Appendix will not appear in the Code of Federal Regulations.

Appendix A to Part 35

Tariff, Rate Schedule and Service Agreement Pagination Guidelines

Due to the complexity of tariff filing situations, the Commission Staff provides the following guidelines. If you have questions or need assistance, please call Tina Lyles at (202) 208–0751 or Brian Stephenson at (202) 208–1277, or such other persons as may be identified from time to time.

(1) Original Sheets. Paginate as ''Original Sheet No.____'' (a) all pages in initial filings, (b) added sheets, and (c) all sheets in a revised tariff volume. Guideline (11) gives an exception for reserved sheets.

(2) Substitute Sheets. Paginate a sheet as ''Substitute'' if it is filed to replace a sheet filed in the same proceeding (e.g., as a result of a hearing order, or of a correction to a tariff sheet filed prior to the issuance of an order, or of a compliance filing) with the same effective date. If a substitute sheet needs to be replaced, paginate the new sheet as ''Second Substitute'', and so on. (See Example No. 1.)

(3) Revised Sheets. Paginate a sheet as ''Revised'' if it is (a) replacing a sheet filed in a different proceeding or (b) replacing a sheet filed in the same proceeding but given a new proposed effective date. Each subsequent ''Revised'' pagination should be numbered sequentially, i.e., First Revised, Second Revised, Third Revised, etc. (See Examples Nos. 1 and 2.)

(4) Superseded Sheets. Each designation must refer to the designation of the sheet being superseded, if any. The superseded sheet is the sheet being replaced by a revised sheet. (There is an exception to this guideline for retroactive filings—see Guideline (9).) Never designate a rejected or suspended sheet as the superseded sheet. However, if a sheet designated as superseded is subsequently rejected, it is not necessary to re-file solely to correct the superseded sheet designation. (See Example No. 1.)

(5) Rejected Sheets. Do not reuse the pagination of a rejected sheet. Paginate a sheet ''Substitute'' if it is filed to replace a rejected sheet in the same proceeding, but do not refer to a rejected sheet as the superseded sheet in the designation. (See Guidelines (3) and (4).)

(6) Alternate Sheets. When filing two versions of a proposed tariff sheet, paginate the sheet '' __ Revised Sheet No. __'' and ''Alternate __ Revised Sheet No. __ ''. Paginate a replacement alternate sheet ''Sub Alternate __''.

(7) Inserted Sheets. Paginate sheets inserted between two consecutively numbered sheets using an uppercase letter following the first sheet number (*e.g.*, sheets inserted between sheets 8 and 9 would be 8A, 8B, etc.). For sheets inserted between two consecutively lettered sheets, add a ''.'' followed by a two digit number (*e.g.*, sheets inserted between sheets 8A and 8B would be 8A.01 through 8A.99). For further insertions, add a lowercase letter (*e.g.*, between sheets 8A.01 and 8A.02 would be 8A.01a, 8A.01b, etc.).

(8) ''Squeezed'' Sheets. When a sheet needs to be made effective between two sequentially paginated sheets already on file (all in different proceedings), paginate the new sheet by adding a ''1st Rev'' designation to the older sheet's pagination. Commonly, this situation occurs when a sheet is suspended for five months and subsequent sheets need to be made effective prior to when the suspended sheet becomes effective. (See Example No. 3.)

(9) ''Retroactive'' Sheets. When filing a ''retroactive'' sheet change back to a certain date, all sheets in effect from that date forward need to be changed. The first sheet should be paginated either as ''Substitute'' (see Guideline (3) above) or ''1st Rev'' (see Guideline (8) above) depending on whether the retroactive filing is in the same or different docket as the sheet being replaced. For simplicity, the rest of the sheets should be paginated as a ''Substitute'' of each effective sheet already on file. Follow Guideline (4) in designating the superseded sheet for the first new sheet. However, the rest of the sheets should supersede each other in order, even though they are all filed in the same docket. In this way the superseded designation will reflect the latest sheet in effect on each given date. (See Examples Nos. 4 and 5.)

(10) Canceled Sheets. When canceling individual sheets, but retaining the tariff or rate schedule, designate a blank sheet as a revised sheet superseding the prior sheet.

(11) Canceled Tariff or Rate Schedule. When canceling an entire tariff or rate schedule, file one sheet paginated as the last sheet of the tariff volume or rate schedule and refer to the tariff volume or rate schedule as canceled. (See Example No. 7.)

(12) Sheets Reserved For Future Use. When reserving a number of sheets for future use, file one sheet paginated ''Sheet Nos. A–Z'', where ''A'' and ''Z'' refer to the first and last reserved sheet numbers. In the body of the sheet state ''Reserved for Future Use.'' (See Example No. 8.)

(13) Abbreviations. Abbreviate from left to right using the Abbreviation Conventions List at the end of this document. *Abbreviate only as needed.* (See Example No. 6.)

The following examples reflect the types of changes and corresponding designations that may be made over the life of a given tariff or rate schedule (all docket numbers and dates are hypothetical, and are not intended to refer to actual proceedings):

Example No. 1

Revised and Substitute Sheets

''Original Sheet No. 4'' is filed in Docket No. ER99–44–000 to be effective January 1, 1999. Subsequently, a sheet filed in Docket No. ER99–123–000 is to be effective February 1, 1999. Paginate the latter sheet as ''First Revised Sheet No. 4 superseding Original Sheet No. 4''. If a mistake is discovered and a corrected sheet needs to be filed in Docket No. ER99–123–001, paginate that sheet ''Substitute First Revised Sheet No. 4 superseding Original Sheet No. 4'' or ''First Revised Sheet No. 4'' (whichever may

apply).[13] Note the superseded sheet is from the prior proceeding.

Docket	Filed	Effective	Pagination	Superseded sheet
ER99–44–000	11/30/98	1/1/99	Original	
ER99–123–000	12/31/98	2/1/99	First Revised	Original.
ER99–123–001 [14]	2/15/99	2/1/99	Sub First Revised	First Revised.

[14] The Commission is issuing a notice contemporaneous with this NOPR informing the public of its intent, should the NOPR become final, to change its assignment of docket numbers to electric filings to a method similar to that used for the gas and oil programs.

If the utility proposes two separate changes to be effective the same date, and the second filing reflects the first filing's proposed changes, then it is appropriate to show the first filing's pagination as superseded.

Docket	Filed	Effective	Pagination	Superseded sheet
ER99–44–000	11/30/98	1/1/99	Original	
ER99–123–000	12/31/98	2/1/99	First Revised	Original.
ER99–124–000	2/15/99	2/1/99	Second Revised	First Revised.

Example No. 2

Sheets Effective on the Same Date

''Second Revised Sheet No. 4'' is filed in Docket No. ER99–200–000 to be effective April 1, 1999. Subsequently, a sheet is filed in Docket No. ER99–504–000 to be effective on the same date. Paginate that sheet with the next revision number, ''Third Revised Sheet No. 4'' even though it is to be effective on the same date.

Docket	Filed	Effective	Pagination	Superseded sheet
ER99–200–000	2/28/99	4/1/99	Second Revised	Sub First Rev.
ER99–504–000	3/31/99	4/1/99	Third Revised	Second Rev.

Example No. 3

Squeezed Sheets

''Fourth Revised Sheet No. 4'' is filed July 31, 1999, in Docket No. ER99–601–000 to be effective September 1, 1999. An order suspends this sheet until February 1, 2000. Subsequently, two filings are made to be effective prior to February 1, 2000. Paginate these sheets as ''1st Rev Third Revised Sheet No. 4'' and ''2nd Rev Third Revised Sheet No. 4''. The utility will be required, if necessary, to file revised tariff sheets to update the suspended tariff sheets to include any changes to the tariff sheets that have been accepted by the Commission between the date of the suspension and the effective date of the suspended rates. When filing to update the revised tariff sheets, paginate the revised tariff sheet as ''Sub Fourth Revised Sheet No. 4''. Note: using the alpha-numeric ''1st, 2nd'' for the additional revision number assists in keeping the pagination clear.

Docket	Filed	Effective	Pagination	Superseded sheet
ER99–601–000	7/31/99	2/1/00	Fourth Revised	Third Revised.
ER99–761–000	8/31/99	10/1/99	1st Rev Third Rev	Third Revised.
ER00–822–000	10/31/99	11/1/99	2nd Rev Third Rev	1st Rev Third Rev.
ER99–601–001	1/31/00	2/1/00	Sub Fourth Revised	2nd Rev Third Rev.

Example No. 4

Retroactive Sheets

The sheet paginated in Example No. 1, ''Sub First Revised Sheet No. 4'' filed in Docket No. ER99–123–001 is in effect February 1, 1999, subject to the resolution of issues. A year later, settlement is reached resulting in a restatement of base rates back to that date. The revised sheets filed under Docket No. ER99–123–002 (using prior examples):

Docket	Filed	Effective	Pagination	Superseded sheet
ER99–123–002	2/15/99	2/1/99	2nd Sub First Revised	Sub First Revised.
		4/1/99	Sub Second Revised	2nd Sub First Rev.
		4/1/99	Sub Third Revised	Sub Second Rev.
		10/1/99	Sub 1st Rev Third Rev	Sub Third Rev.
		11/1/99	Sub 2nd Rev Third Rev	Sub 1st Rev Third Rev.
		2/1/00	2nd Sub Fourth Rev	Sub 2nd Rev Third Rev.

Example No. 5

Retroactive Sheets

Continuing from Example 4, a subsequent tracker filing retroactive to November 1, 1999:

Docket	Filed	Effective	Pagination	Superseded sheet
ER00–77–000	4/30/00	11/1/99	3rd Rev Third Rev	Sub 2nd Rev Third Rev.

[13] The Commission is issuing a notice contemporaneous with this NOPR informing the public of its intent, should the NOPR become final, to change its assignment of docket numbers to electric filings to a method similar to that used for the gas and oil programs.

Docket	Filed	Effective	Pagination	Superseded sheet
	2/1/00	.....	3rd Sub Fourth Rev	3rd Rev Third Rev.

Example No. 6

Abbreviations

Abbreviate ''Fourth Revised Twenty-Third Revised Sheet No. 4'' as ''4th Rev Twenty-Third Revised Sheet No. 4''.

Example No. 7

Canceled Rate Schedules and Tariffs

To cancel FERC Electric Rate Schedule FERC No. 26, which consists of sheets 1–39, file ''Original Sheet No. 40'':

Company name	Original sheet No. 40
FERC Electric Rate Schedule No. 26	Cancels FERC Electric Rate Schedule No. 26.

Notice of Cancellation.

Example No. 8

Reserved Sheets

Your general terms and conditions end on page 75 and you want to reserve sheets 76 through 99 for future use:

Electric company	Sheet Nos. 76 through 99
FERC Electric Tariff, Original Volume No. 2.	

Sheet Nos. 76 through 99 are reserved for future use.

Abbreviation Conventions List

Substitute: Sub
Alternate: Alt
Revised: Rev
First, Second, etc.: 1st, 2nd, etc.
Sheet No.: (omit these words)

SAMPLE PAGE

Day and light power company	Original sheet No. 4
FERC Electric Tariff, Original Volume No. 1: Issued by: Harriet Officer, Rates Manager ..... Issued on: June 10, 2000	Effective: July 1, 2000.

To comply with order of the Federal Energy Regulatory Commission, Docket No. ER99–5374–000, issued October 27, 1999, 90 FERC ¶ 61,010 (1999).

[FR Doc. 99–28822 Filed 11–4–99; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–115932–99]

RIN 1545–AX60

Reopenings of Treasury Securities and Other Debt Instruments; Original Issue Discount

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations, notice of proposed rulemaking, and notice of public hearing.

SUMMARY: This document proposes, by cross reference to temporary regulations, amendments to the final regulations concerning the Federal income tax treatment of certain reopenings of Treasury securities. The temporary regulations, published in the Rules and Regulations section of this issue of the **Federal Register**, remove the requirement that the issuance of the Treasury securities in the reopening must be intended to alleviate an acute, protracted shortage of the original securities. The text of the temporary regulations also serves as the text of the proposed regulations. This document also contains proposed regulations that would provide guidance on the Federal income tax treatment of reopenings of debt instruments other than Treasury securities. The proposed regulations would provide guidance to holders and issuers of debt instruments. This document also provides notice of a public hearing on the proposed regulations.

DATES: Written and electronic comments must be received by February 3, 2000. Requests to appear and outlines of topics to be discussed at the public hearing scheduled for March 22, 2000, at 10 a.m., must be received by March 1, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–115932–99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–115932–99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option of the IRS Home Page or by submitting comments directly to the IRS Internet

site at http://www.irs.gov/tax__regs/regslist.html. A public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, William E. Blanchard, (202) 622–3950; concerning submissions and the hearing, Michael L. Slaughter, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 1275 of the Internal Revenue Code (Code). The temporary regulations provide rules for qualified reopenings of Treasury securities. See § 1.1275–2T(d).

This document also proposes new rules under sections 163(e) and 1275 of the Code for qualified reopenings of debt instruments other than Treasury securities.

Explanation of Provisions

Reopenings of Treasury Securities

The text of the temporary regulations (§ 1.1275–2T(d)) also serves as the text of the proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Reopenings of Debt Instruments Other Than Treasury Securities

A. In General

Over the past few years, a number of issuers have developed programs or practices where debt instruments with identical terms and CUSIP numbers are sold subsequent to their original issue date. These subsequent sales are often called ''reopenings.'' The original issue discount (OID) rules generally accommodate reopenings during periods of stable or falling market interest rates. As is explained in more detail below, during periods of rising market interest rates, the OID rules can effectively prohibit reopenings. The proposed regulations in this document would modify the OID rules to accommodate certain qualified reopenings.

Under § 1.1275–1(f), two or more debt instruments are part of the same issue if they have the same payment and credit terms and are sold reasonably close in time either pursuant to a common plan or as part of a single transaction or series of related transactions. Usually, there is little doubt as to what constitutes an issue because all of the relevant debt instruments have identical terms, have the same CUSIP number, and are sold on the same day. When the third condition is not met, however, there is a question as to whether the subsequently sold debt instruments are part of the original issue or are themselves a new issue.

This question—whether the subsequently sold debt instruments are part of the original issue—has important tax consequences. If the subsequently sold debt instruments are considered part of the original issue, they have OID only to the extent the debt instruments in the original issue have OID. Thus, if the original debt instruments were issued without OID, the subsequently sold debt instruments also do not have OID. In this case, any discount on the subsequently sold debt instruments generally is market discount, not OID. Conversely, if the subsequently sold debt instruments are a separate issue for tax purposes, any discount that arises as part of their issuance is OID if it equals or exceeds the OID de minimis amount for the debt instruments. See § 1.1273–1(d) to determine the de minimis amount.

The holder and issuer have different tax consequences depending upon whether the discount is characterized as OID or market discount. For the holder, the primary difference is whether the holder has to include the discount in income on a current basis as it accrues. If it is OID, the holder must include the accruals in income currently; if it is market discount, the holder generally does not have to include discount in income until the debt instrument is disposed of or redeemed. The issuer's tax consequences also depend on whether the discount is OID or market discount. If the subsequently sold debt instruments are part of a separate issue and if the discount is OID, the issuer (or a broker or middleman) generally is required to make OID information reports for these debt instruments. See § 1.6049–5. To comply with this reporting obligation, the issuer must be able to distinguish the subsequently sold debt instruments (which require OID information reports) from the originally sold debt instruments. As a practical matter, the only way the subsequently sold debt instruments can be distinguished is if they are assigned new CUSIP numbers. The assignment of new CUSIP numbers prevents the debt instruments from being fungible and, thereby, defeats the purpose of the reopening.

B. Qualified Reopenings

This document proposes new qualified reopening rules. Under these rules, additional debt instruments sold in a qualified reopening would be part of the same issue as the original debt instruments. As a result, the additional debt instruments would have the same issue date, the same issue price, and (with respect to holders) the same adjusted issue price as the original debt instruments.

A qualified reopening would be a reopening of original debt instruments that meets the following conditions: (1) The original debt instruments are publicly traded; (2) The issue date of the additional debt instruments (treated as a separate issue) is not more than 6 months after the issue date of the original debt instruments; (3) Seven days before the date on which the price of the additional debt instruments is established, the yield of the original debt instruments (based on their fair market value) is not more than 107.5 percent of the yield of the original debt instruments on their issue date (or, if the original debt instruments were issued with no more than a de minimis amount of OID, the coupon rate); and (4) The yield of the additional debt instruments (based on the sales price of the additional debt instruments) is not more than 115 percent of the yield of the original debt instruments on their issue date (or, if the original debt instruments were issued with no more than a de minimis amount of OID, the coupon rate).

A qualified reopening also would include a reopening of original debt instruments if the first two conditions described above are met and the additional debt instruments (treated as a separate issue) were issued with no more than a de minimis amount of OID. A qualified reopening, however, would not include a reopening of tax-exempt obligations or contingent payment debt instruments.

The qualified reopening rules attempt to strike a balance between tax policy concerns about the conversion of OID into market discount and the need to have the tax rules reflect current capital market practices. The IRS and the Treasury Department believe the appropriate balance is to provide reopening rules for situations where the issuer can prove by objective, market-based information that the reopening will convert, at most, only a small amount of OID into market discount. To clearly and accurately measure the conversion benefit across different interest rate environments and debt instrument terms, the proposed regulations use a yield-based standard. The 107.5 percent standard was designed to give some relief to the reopening of relatively short-term issues (that is, issues with a remaining term of

10 years or less). These issues tend to be the most impacted by the OID de minimis rule standard.

The two yield-based rules are designed to work in tandem. The 107.5 percent of yield restriction is tested 7 days before the anticipated pricing date. This rule is designed to give the issuer a preliminary indication that its reopening will be a qualified reopening prior to the issuer's announcement of the reopening. Importantly, this preliminary indication is not controlling. Absent the 115 percent rule, if market interest rates were to move sharply upward in the week between the announcement date and the pricing date, the reopened debt instruments would go out with a significant amount of market discount (instead of OID) notwithstanding the fact that seven days before the pricing date the instruments satisfied the 107.5 percent rule. In this presumably rare and unusual case, the tax policy concern of converting a significant amount of OID into market discount becomes relatively more important. The proposed regulations, therefore, limit the total amount of discount that can be converted into market discount with the 115 percent rule.

C. Definition of Issue

The proposed regulations also change the definition of issue that is currently in § 1.1275–1(f) of the final OID regulations (described above). Essentially, the proposed regulations limit the ''reasonably close in time'' standard of current law to 13 days. The IRS and the Treasury Department believe that reopenings should be done through the proposed qualified reopening rule (discussed above), not through an expansive interpretation of the regulatory definition of issue. The 13-day limitation was chosen to prevent an issuer that comes to market every two weeks from stretching the definition of issue to cover two consecutive market sales. If an issuer wants to reopen more than 13 days after the initial offering, the sole test should be whether the reopening qualifies under the proposed qualified reopening rules.

D. Issuer's Treatment

This document also proposes rules that clarify the issuer's treatment of the debt instruments comprising an issue when there is a qualified reopening. The proposed regulations require the issuer to take into account, as an adjustment to its interest expense, any difference between the amounts paid by the holders to acquire the additional debt instruments issued in the qualified reopening and the adjusted issue price of the original debt instruments. This difference would either increase or decrease the aggregate adjusted issue prices of all of the debt instruments in the issue (both original and additional) with respect to the issuer (but not the holder). The issuer would then, as of the reopening date, recompute the yield of the debt instruments in the issue based on this aggregate adjusted issue price and the remaining payment schedule of the debt instruments. The issuer would use this redetermined yield for purposes of applying the constant yield method to determine its accruals of interest expense over the remaining term of the debt instruments in the issue.

During the consideration of the issuer's treatment of the additional debt instruments, a question arose as to whether the issuer's all-in-cost-of-capital should be used to determine the issuer's interest expense for a particular borrowing. Under current law, the costs of anticipatory hedges and bond issuance costs (such as underwriter fees) are not treated as interest expense even though they affect the issuer's cost of acquiring funds (the issuer's all-in-cost-of-capital). The IRS and the Treasury Department request comments on whether the issuer's all-in-cost-of-capital should be used to determine the issuer's interest expense for a particular borrowing.

E. Proposed Effective Dates

Section 1.163–7(e) of the proposed regulations would apply to qualified reopenings where the reopening date is on or after the date that is 60 days after the date final regulations are published in the **Federal Register**. Section 1.1275–2(k) of the proposed regulations would apply to debt instruments that are part of a reopening where the reopening date is on or after the date that is 60 days after the date final regulations are published in the **Federal Register**.

The proposed revision to the definition of the term *issue* would apply to debt instruments whose issue date is on or after the date that is 60 days after the date final regulations are published in the **Federal Register**. For debt instruments issued prior to the effective date of the regulations, no inference is intended as to how the term *issue* should be interpreted under the current final regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written or electronic comments (a signed original and eight (8) copies, if written) that are submitted timely (in the manner described in the **ADDRESSES** portion of this preamble) to the IRS. The IRS and Treasury specifically request comments on the clarity of the proposed regulations and how the regulations may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for March 22, 2000, at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identifications to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments by February 3, 2000, and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by March 1, 2000. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is William E. Blanchard, Office of Assistant Chief Counsel

(Financial Institutions and Products). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.163–7 is amended by:

1. Redesignating paragraph (e) as paragraph (f).
2. Adding a new paragraph (e).
3. Revising newly designated paragraph (f).

The revision and addition read as follows:

§ 1.163–7 Deduction for OID on certain debt instruments.

* * * * *

(e) *Qualified reopening*—(1) *In general.* In a qualified reopening of an issue of debt instruments, if a holder pays more or less than the adjusted issue price of the original debt instruments to acquire an additional debt instrument, the issuer treats this difference as an adjustment to the issuer's interest expense for the original and additional debt instruments. As provided by paragraphs (e)(2) through (e)(5) of this section, the adjustment is taken into account over the term of the instrument using constant yield principles.

(2) *Positive adjustment.* If the difference is positive (that is, the holder pays more than the adjusted issue price of the original debt instrument), then, with respect to the issuer but not the holder, the difference increases the aggregate adjusted issue prices of all of the debt instruments in the issue, both original and additional.

(3) *Negative adjustment.* If the difference is negative (that is, the holder pays less than the adjusted issue price of the original debt instrument), then, with respect to the issuer but not the holder, the difference reduces the aggregate adjusted issue prices of all of the debt instruments in the issue, both original and additional.

(4) *Determination of issuer's interest accruals.* As of the reopening date, the issuer must redetermine the yield of the debt instruments in the issue for purposes of applying the constant yield method described in § 1.1272–1(b) to determine the issuer's accruals of interest expense over the remaining term of the debt instruments in the issue. This redetermined yield is based on the aggregate adjusted issue prices of the debt instruments in the issue (as determined under this paragraph (e)) and the remaining payment schedule of the debt instruments in the issue. If the aggregate adjusted issue prices of the debt instruments in the issue (as determined under this paragraph (e)) are less than the aggregate stated redemption price at maturity of the instruments (determined as of the reopening date) by a de minimis amount (within the meaning of § 1.1273–1(d)), the issuer may use the rules in paragraph (b) of this section to determine the issuer's accruals of interest expense.

(5) *Effect of adjustments on issuer's adjusted issue price.* The adjustments made under this paragraph (e) are taken into account for purposes of determining the issuer's adjusted issue price under § 1.1275–1(b).

(6) *Definitions.* The terms *additional debt instrument, original debt instrument, qualified reopening,* and *reopening date* have the same meanings as in § 1.1275–2(k).

(f) *Effective dates.* This section (other than paragraph (e) of this section) applies to debt instruments issued on or after April 4, 1994. Taxpayers, however, may rely on this section (other than paragraph (e) of this section) for debt instruments issued after December 21, 1992, and before April 4, 1994. Paragraph (e) of this section applies to qualified reopenings where the reopening date is on or after the date that is 60 days after the date final regulations are published in the **Federal Register**.

Par. 3. In § 1.1275–1, paragraph (f) is revised to read as follows:

§ 1.1275–1 Definitions.

* * * * *

(f) *Issue*—(1) *Definition.* Two or more debt instruments are part of the same issue if the debt instruments—

(i) Have the same credit and payment terms;

(ii) Are issued either pursuant to a common plan or as part of a single transaction or a series of related transactions; and

(iii) Are issued within a period of 13 days beginning with the date on which the first debt instrument that would be part of the issue is issued to a person other than a bond house, broker, or similar person or organization acting in the capacity of an underwriter, placement agent, or wholesaler.

(2) *Cross-references for reopening and aggregation rules.* See § 1.1275–2(d) and (k) for rules that treat debt instruments issued in certain reopenings as part of an issue of original (outstanding) debt instruments. See § 1.1275–2(c) for rules that treat two or more debt instruments as a single debt instrument.

(3) *Effective date.* This paragraph (f) applies to debt instruments whose issue date is on or after the date that is 60 days after the date final regulations are published in the **Federal Register**.

* * * * *

Par. 4. In § 1.1275–2, paragraph (d) is revised and paragraph (k) is added to read as follows:

§ 1.1275–2 Special rules relating to debt instruments.

* * * * *

(d) [The text of this proposed paragraph (d) is the same as the text of § 1.1275–2T(d) published elsewhere in this issue of the **Federal Register**.]

* * * * *

(k) *Reopenings*—(1) *In general.* Notwithstanding § 1.1275–1(f), additional debt instruments issued in a qualified reopening are part of the same issue as the original debt instruments. As a result, the additional debt instruments have the same issue date, the same issue price, and (with respect to holders) the same adjusted issue price as the original debt instruments.

(2) *Definitions*—(i) *Original debt instruments.* Original debt instruments are debt instruments comprising any single issue of outstanding debt instruments. For purposes of determining whether a particular reopening is a qualified reopening, debt instruments issued in prior qualified reopenings are treated as original debt instruments and debt instruments issued in the particular reopening are not so treated.

(ii) *Additional debt instruments.* Additional debt instruments are debt instruments that, without the application of this paragraph (k)—

(A) Are part of a single issue of debt instruments;

(B) Are not part of the same issue as the original debt instruments; and

(C) Have terms that are in all respects identical to the terms of the original debt instruments as of the reopening date.

(iii) *Reopening date.* The reopening date is the issue date of the additional debt instruments (determined without the application of this paragraph (k)).

(iv) *Qualified reopening.* A qualified reopening is a reopening of original debt instruments (other than tax-exempt

obligations, as defined in section 1275(a)(3), and contingent payment debt instruments, within the meaning of § 1.1275–4) that meets all of the following conditions:

(A) The original debt instruments are publicly traded (within the meaning of § 1.1273–2(f)).

(B) The reopening date of the additional debt instruments is not more than 6 months after the issue date of the original debt instruments.

(C) The debt instruments satisfy either the test described in paragraph (k)(3) of this section or the test described in paragraph (k)(4) of this section.

(3) *Yield test.* For purposes of paragraph (k)(2)(iv)(C) of this section—

(i) Seven days before the date on which the price of the additional debt instruments is established, the yield of the original debt instruments (based on their fair market value) is not more than 107.5 percent of the yield of the original debt instruments on their issue date (or, if the original debt instruments were issued with no more than a *de minimis* amount of OID, the coupon rate); and

(ii) The yield of the additional debt instruments (based on the sales price of the additional debt instruments) is not more than 115 percent of the yield of the original debt instruments on their issue date (or, if the original debt instruments were issued with no more than a *de minimis* amount of OID, the coupon rate).

(4) *De minimis OID test.* For purposes of paragraph (k)(2)(iv)(C) of this section, the additional debt instruments are issued with no more than a *de minimis* amount of OID (determined without the application of this paragraph (k)).

(5) *Special rule for Treasury reopenings.* See paragraph (d) of this section for special rules for reopenings of Treasury securities.

(6) *Issuer's treatment of a qualified reopening.* See § 1.163–7(e) for the issuer's treatment of the debt instruments that are part of a qualified reopening.

(7) *Effective date.* This paragraph (k) applies to debt instruments that are part of a reopening where the reopening date is on or after the date that is 60 days after the date final regulations are published in the **Federal Register**.

David A. Mader,

Acting Deputy Commissioner of Internal Revenue.

[FR Doc. 99–28742 Filed 11–3–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD09–99–081]

RIN 2115–AA98

Special Anchorage Area: Henderson Harbor, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to enlarge the existing special anchorage area in Henderson Harbor, New York. This action is taken at the request of the Town of Henderson harbormaster, and is intended to make space available within the special anchorage area for additional moorings.

DATES: Comments must be received on or before January 4, 2000.

ADDRESSES: Comments may be mailed to Commander (map-1), Marine Safety Division, Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199–2060. Commander (map-1) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander, Ninth Coast Guard District, 1240 E. Ninth Street, Room 2069, Cleveland, Ohio 44199–2060, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Lynn Goldhammer, Marine Safety Division, Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199–2060, (216) 902–6050.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD09–99–081) and the specific section of this proposal to which each comment applies. Give the reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed envelope or postcard. Comments should be submitted to the address under **ADDRESSES**.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing; however, persons may request a public hearing by writing to Lieutenant Goldhammer at the address under **ADDRESSES**. If the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Discussion of Proposed Rules

The proposed rule is in response to a request from the Town of Henderson harbormaster to accommodate an increased number of vessels mooring in this area and to offset the loss of available moorings in the special anchorage area because of lower water levels in Lake Ontario. The proposed rule would expand *Area A* of the existing special anchorage near Henderson Harbor, New York, described in 33 CFR 110.87(a), to allow its use by additional boats. Vessels not more than 65 feet in length, when at anchor in any special anchorage, are not required to carry or exhibit the white anchor lights required by Navigation Rules. The proposed rule would provide additional moorings in which vessel owners may enjoy the convenience of a special anchorage. The existing anchorage, located near Graham Creek, is split into two areas by a short fairway channel. The proposed change would extend the eastern most length of the *Area A* anchorage by approximately 900 feet, increasing the length of the fairway channel by the same distance.

The descriptions of *Area A* and *Area B* are being changed to latitude and longitude position points in order to more accurately describe the special anchorage area and for consistency with other established special anchorage area descriptions. No other changes to the anchorage area other than that described above for *Area A* are intended by this change to latitude and longitude description.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of

DOT is unnecessary. No person will be required to spend any money in order to comply with this regulation. The proposed regulation will exempt persons operating in the expanded area from complying with the more stringent vessel lighting regulations they would ordinarily be obliged to follow.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 people. For the reasons discussed in the Regulatory Evaluation section above, the Coast Guard expects that this proposed rule, if adopted, will not have any significant impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think your business or organization qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

This proposed rule contains no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 13132 and has determined that this proposed rule does not have implications for federalism under that order.

Environment

The Coast Guard has considered the environmental impact of this proposed rule and concludes that under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying and may be obtained by contacting the Coast Guard office listed under **ADDRESSES** in this proposed rule.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulation

For the reason set out in the preamble, the Coast Guard proposes to amend 33 CFR part 110 as follows:

PART 110—[AMENDED]

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2071; 1221 through 1236, 2030, 2035, 2071, 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 110.87 is revised to read as follows:

§ 110.87 Henderson Harbor, N.Y.

(a) *Area A.* The area in the southern portion of Henderson Harbor west of the Henderson Harbor Yacht Club bounded by a line beginning at latitude 43°51′08.8″ N, longitude 76°12′08.9″ W, thence to latitude 43°51′09.0″ N, longitude 76°12′19.0″ W, thence to latitude 43°51′23.8″ N, longitude 76°12′19.0″ W, thence to latitude 43°51′33.4″ N, longitude 76°12′09.6″ W, thence to the point of beginning.

(b) *Area B.* The area in the southern portion of Henderson Harbor north of Graham Creek Entrance Light bounded by a line beginning at latitude 43°51′21.8″ N, longitude 76°11′58.2″ W, thence to latitude 43°51′21.7″ N, longitude 76°12′05.5″ W, thence to latitude 43°51′33.4″ N, longitude 76°12′06.2″ W, thence to latitude 43°51′33.6″ N, longitude 76°12′00.8″ W, thence to the point of beginning. All nautical positions are based on North American Datum of 1983.

(c) Permission must be obtained from the Town of Henderson Harbormaster before any vessel is moored or anchored in this special anchorage area.

Dated: October 21, 1999.

James D. Hull,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 99–29029 Filed 11–4–99; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–192–1–9962(b); TN–193–1–9963(b); FRL–6464–9]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Source Specific Revisions to the Nonregulatory Portion of the Tennessee SIP Regarding Emission Limits for Particulate Matter and Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve two requests by the Tennessee Department of Air Pollution Control (TDAPC) to incorporate revised permits for eight facilities into the Tennessee State Implementation Plan (SIP). All of the permits affected by this action were previously approved into the SIP to meet various Clean Air Act (CAA) and regulatory requirements. EPA proposes to approve an April 9, 1997, submittal from TDAPC that amends permits for the Soda Recovery Furnace and the Smelt Tank at Willamette Industries Inc., Kingsport, to establish revised particulate matter (PM) emission limits for these units. The revised emission limits will have a net positive impact on ambient air quality. An April 14, 1997, submittal from the Chattanooga-Hamilton County Air Pollution Control Bureau (CHCAPCB), through TDAPC, revises the permits as amended by agreed order for seven miscellaneous metal parts coaters located in Hamilton County to qualify them as a synthetic minor sources. Based on supplemental information received from CHCAPCB, EPA has concluded that one of these seven facilities is now a new source and thus need not be included in this approval action. EPA proposes to approve the revised permits for the remaining six facilities into the SIP. In the Final Rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA

will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before December 6, 1999.

ADDRESSES: All comments should be addressed to: Allison Humphris at the EPA, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Allison Humphris, 404/562–9030.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243–1531. 615/532–0554.

Chattanooga-Hamilton County Air Pollution Control Bureau, 3511 Rossville Boulevard, Chattanooga, Tennessee 37407–2495. 423/867–4321.

FOR FURTHER INFORMATION CONTACT: Allison Humphris at 404/562–9030.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Final Rules section of this **Federal Register**.

Dated: October 18, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99–28212 Filed 11–2–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–105–1–9949b; TN–209–1–9950b; FRL–6469–3]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions to Knox County portion of Tennessee Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State implementation plan (SIP) revision submitted by the State of Tennessee for the purpose of revising the rule for exceptions to the open burning and permits regulations for the Knox County portion of the Tennessee SIP. In the Final Rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before December 6, 1999.

ADDRESSES: All comments should be addressed to Steven M. Scofield at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the State submittals are available at the following addresses for inspection during normal business hours:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Steven M. Scofield, 404/562–9034.

Division of Air Pollution Control, Tennessee Department of Environment and Conservation, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243–1531. 615/532–0554.

Knox County Department of Air Pollution Control, 400 West Main Avenue, Suite 339, City-County Building, Knoxville, Tennessee 37902–2405. 423/215–2488.

FOR FURTHER INFORMATION CONTACT: Steve M. Scofield at 404/562–9034.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Final Rules section of this **Federal Register**.

Dated: October 6, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99–28880 Filed 11–4–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL–6470–7]

Control of Air Pollution From New Motor Vehicles; Compliance Programs for New Light-Duty Vehicles and Light-Duty Trucks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice requesting comment on Ethyl Corporation petition for reconsideration.

SUMMARY: EPA requests comment on a petition submitted to EPA by the Ethyl Corporation (Ethyl). The petition requests reconsideration of the CAP 2000 final rule at 64 FR 23906 (May 4, 1999).

DATES: Comments must be received on or before December 20, 1999.

ADDRESSES: Interested parties should submit written comments (in duplicate, if possible) to: EPA Air and Radiation Docket, Attention Docket No.A–96–50, room M–1500 (mail code 6102), 401 M St., SW, Washington, D.C. 20460. The docket may be inspected at this location from 8:30 a.m. until 5:30 p.m. weekdays. The docket may also be reached by telephone at (202) 260–7548. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for photocopying.

FOR FURTHER INFORMATION CONTACT: Linda Hormes, Office of Mobile Sources, Vehicle Programs and Compliance Division, 2000 Traverwood, Ann Arbor, MI 48105. Phone: (734) 214–4502. Email: lhormes@epa.gov.

SUPPLEMENTARY INFORMATION: On July 2, 1999, the Ethyl Corporation submitted a petition to EPA requesting reconsideration of the CAP 2000 final rule. Ethyl based its request for reconsideration on the argument that certain aspects of the CAP 2000 rule are inconsistent with the Clean Air Act (Act). In brief, Ethyl focused on the durability demonstration requirements of the regulation and stated that section 206(d) of the Act requires EPA to establish certification test procedures by regulation and that EPA can not avoid its rulemaking responsibilities under 307(d) by characterizing the certification process as an adjudicatory type

proceeding. Ethyl's petition also states that maintaining the secrecy of certification test procedures is not in the public interest. Ethyl also submitted comments during the CAP 2000 rulemaking; the preamble to the final rule discusses these, explains EPA's reasons for adopting the durability demonstration procedures contained in the rule, and why EPA believes these provisions are consistent with the Act.

Because of the potential impact the Agency's decision could have on the automotive industry and on other concerned parties, EPA is requesting comment on all the issues raised in Ethyl's petition for reconsideration. EPA also requests that commenters address any specific impacts the decision (whether approval or denial) would have on the commenter. EPA will consider all comments and publish its final decision in a separate **Federal Register** document.

The Ethyl petition and other related documents may be found in the docket listed above in the **ADDRESSES** section. An electronically scanned copy of Ethyl's petition can be found at http://www.epa.gov/oms/ld-hwy.htm#regs.

Dated: November 1, 1999.

Margo T. Oge,

Director, Office of Mobile Sources.

[FR Doc. 99–29076 Filed 11–4–99; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF COMMERCE

National Oceanic Atmospheric Administration

50 CFR Part 622

[I.D. 101299F]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper Grouper Fishery off the Southern Atlantic States; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings; request for comments; correction.

SUMMARY: NMFS published a document in the **Federal Register** of October 25, 1999, announcing public hearings on Draft Amendment 12 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region and its draft supplemental environmental impact statement. The document contained an error in the subject line.

FOR FURTHER INFORMATION CONTACT: Kerry O'Malley, South Atlantic Fishery Management Council, 803–571–4366; Fax: 803–769–4520; E-mail address: kerry.omalley@noaa.gov

Correction

In the **Federal Register** issue of October 25, 1999, in FR Doc. 99–27769, on page 57436, in the first column, correct the Subject line to read as follows:

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper Grouper Fishery off the Southern Atlantic States; Public Hearings.

Dated: October 29, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–29058 Filed 11–4–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 102899A]

Pelagics Fisheries of the Western Pacific Region

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of scoping meetings; notice of cancellation of one scoping meeting; request for comments.

SUMMARY: On October 6, 1999, and on October 20, 1999, NMFS announced its intent to prepare an Environmental Impact Statement (EIS) on Federal management of the fishery for pelagic species in the Exclusive Economic Zone (EEZ) waters of the Western Pacific Region. The scope of the EIS analysis will include all activities related to the conduct of the fishery authorized and managed under the Fishery Management Plan for the Pelagics Fisheries of the Western Pacific Region (FMP) and all amendments thereto. Additionally, NMFS announced its intention to prepare an Environmental Assessment (EA) on the fishery for pelagic species in the EEZ waters of the Western Pacific Region. The scope of the analysis of the EA will include all activities related to the conduct of the fishery for the 2-year period NMFS anticipates is necessary to prepare the EIS. NMFS is holding concurrent scoping meetings to provide for public input into the range of actions, alternatives, and impacts that the EIS and EA should consider. Scoping for the EIS and EA commenced with publication of the document on October 6, 1999. In addition to holding the scoping meetings, NMFS is accepting written comments on the range of actions, alternatives, and impacts it should be considering for this EIS, as well as comments on the scope of the EA.

DATES: Written comments will be accepted through December 6, 1999. See **ADDRESSES** for location to mail or fax written comments. See **SUPPLEMENTARY INFORMATION** for meeting times and special accommodations.

ADDRESSES: The Responsible Program Manager for this EIS is Rodney R. McInnis, Acting Southwest Regional Administrator, NMFS. Written comments and requests to be included on a mailing list of persons interested in the EIS should be sent to Marilyn Luipold, Pacific Islands Area Office, NMFS, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814–4700. Comments also may be sent, via facsimile, to 808–973–2941. NMFS will not accept comments sent by e-mail or the Internet. See **SUPPLEMENTARY INFORMATION** for meeting locations and special accommodations.

FOR FURTHER INFORMATION CONTACT: Marilyn Luipold, 808–973–2937 or 2935 extension 204.

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Fishery Conservation and Management Act, the United States has exclusive fishery management authority over all living marine resources within the EEZ between the seaward boundary of each state or U.S. island possession seaward to 200 nautical miles from the baseline used to measure the territorial sea. The management of these marine resources is vested in the Secretary of Commerce and in eight regional fishery management councils. The Western Pacific Fishery Management Council (Council) has the responsibility to prepare FMPs for the marine resources that require conservation and management in the Western Pacific Region. The National Environmental Policy Act (NEPA) requires preparation of EISs for major Federal actions significantly affecting the quality of the human environment (42 U.S.C. 4332).

The FMP was developed by the Council, and regulations implementing management measures were published on February 17, 1987 (52 FR 5983). An EA was prepared for the action implementing the FMP. The FMP has been amended seven times, and NEPA environmental documents (environmental assessments, categorical exclusions, findings of no significant

impact, and an EIS) have been prepared for each FMP and regulatory amendment. However, many of these earlier documents have become outdated and/or focused on individual management actions, making it difficult to obtain a comprehensive view of issues and management options for the fishery as it exists today. NMFS is undertaking preparation of a comprehensive EIS in order to analyze the fishery as it is currently conducted, to address any and all impacts that might have been overlooked in earlier analyses, and to improve management of the fishery. The Federal action under review is defined as, among other things, all activities authorized and managed under the FMP, as amended.

The EIS will present an overall picture of the environmental effects of fishing as conducted under the FMP, rather than focusing narrowly on one management action, and will include a range of reasonable management alternatives and an analysis of their impacts in order to define issues and provide a clear basis for choice among options by the public, the Council, and NMFS. NMFS intends to assess the biological and socio-economic impacts that result from regulation of the pelagic fisheries of the Western Pacific Region, including license limitation, as well as present and potential controls on effort, harvest levels, location, timing, and methods of fishing. The effects on associated species, including interactions with protected species, will be assessed. NMFS intends to evaluate the significant changes that have occurred in the pelagic fisheries, including the significant cumulative effects of changes in fishing activities, socio-economics, the environment, and management. The assessment will include analysis of the cumulative or incremental impacts of actions and alternatives. Impacts associated with status quo management (*i.e.*, continuation of fishing as currently conducted) will be presented and compared to situations simulating limits on fishing areas and/or gears over all or parts of the management area. Possible alternatives to the current conduct of the fishery include a range of area and/or seasonal closures for the longline fishery, gear restrictions and/or modifications, including prohibitions on the use of longline gear in some or all of the management area, and adjustments to requirements for handling incidental hookings and takings of protected species. The impacts of EEZ fishing activity and harvest on the marine environment will be assessed under representative alternative management scenarios that will ensure consideration of impacts that may reach beyond the EEZ. As the number of possible alternatives is virtually infinite, the EIS will not consider detailed alternatives for every aspect of the FMP. Therefore, a principal objective of the scoping and public input process is to identify a reasonable set of management alternatives that, with adequate analysis, will sharply define critical issues and provide a clear basis for choice among the alternatives.

Issues

The environmental consequences section of the EIS will display the impacts of pelagics harvest accruing with present management regulations and under a range of representative alternative management regulations on Western Pacific ecosystem issues. These issues include: Essential fish habitat (EFH), target and non-target species of fish (including tunas, swordfish, and sharks), fish that are discarded, marine mammals (Hawaiian monk seals and cetaceans), sea turtles, and seabirds present in the Western Pacific ecosystem. In addition, the environmental consequences section will contain a summary, interpretation, and predictions for socio-economic issues associated with conduct of the fishery on the following groups of individuals: (1) Those who participate in harvesting the fishery resources and other living marine resources, (2) those who process and market the fish and fishery products, (3) those who are involved in allied support industries, (4) those who consume fishery products, (5) those who rely on living marine resources in the management area either for subsistence needs or for recreational benefits, (6) those who benefit from non-consumptive uses of living marine resources, (7) those involved in managing and monitoring fisheries, and (8) fishing communities.

EA Issues

In the EA, NMFS intends to evaluate whether the conduct of the current fisheries over the next 2 years will have significant environmental impacts. The Federal action under review in the EA is defined as all activities authorized and managed under the FMP, as amended, for the 2-year period anticipated to be necessary for preparation of the EIS. The EA will present an overall picture of the environmental effects over the next 2 years of fishing as conducted under the FMP. Efforts will be made to quantify and explain the intensity of projected impacts on EFH, target and non-target species of fish (including tunas, swordfish, and sharks), fish that are discarded, marine mammals (Hawaiian monk seals and cetaceans), sea turtles, and seabirds present in the Western Pacific ecosystem. Additionally, the EA will evaluate socio-economic impacts associated with the fishery on groups of individuals, including fishing communities, harvesters, processors and marketers, consumers, subsistence and recreational users of living marine resources in the management area, non-consumptive users, and individuals involved in allied support industries and management and monitoring of the fisheries. Although the focus of the EA will be analysis of impacts associated with continuation of fishing as currently conducted, reasonable alternatives for application in the 2-year period, including area and/or seasonal closures for the longline fishery, gear restrictions and/or modifications including prohibitions on the use of longline gear in part or all of the management area, and adjustments to requirements for handling incidental hookings and takings of protected species, will be addressed.

Public Involvement

Scoping for the EIS and EA began with publication of the document at 64 FR 54272, October 6, 1999. An informational presentation of the project will be made at a scoping meeting to be held in the Hawaiian Islands on Oahu at the following time and location:

Waianae, Oahu, HI—November 30, 1999, 6—8 p.m., Waianae Public Library, 85625 Farrington Hwy., Waianae, HI 96792.

Scoping meetings in American Samoa, Commonwealth of the Northern Mariana Islands, and Guam will be held at the following times and locations:

1. Fagatogo, American Samoa, —November 15, 1999, 3—5 p.m., Department of Marine and Wildlife Resources (DMWR) Conference Room, AS. Phone contact c/o DMWR (684) 633–4456.

2. Agana (Hagatna), GUAM, —November 16, 1999, 7—8 p.m., Guam Fishermen's Cooperative Association, Hagatna Boat Basin, Agana (Hagatna), GU. Phone contact c/o Guam Dept. of Commerce (671) 475–0321.

3. Susupe, Saipan, Commonwealth of the Northern Mariana Islands (CNMI), —November 17, 1999, from 7:00–8:00 p.m., Joeten-Kiyu Library, Beach Road, Susupe, Saipan, CNMI. Phone Division of Fish and Wildlife Resources (DFWR) 670–322–9627 for information.

The meeting scheduled for Haleiwa, Oahu, HI for November 8, 1999, from 6—8 p.m., at Haleiwa Alii Beach Park,

66167 Haleiwa Rd., Haleiwa, HI 96712 has been canceled. The cancellation is due to loss of access to the Haleiwa Alii Beach Park site. Interested persons are invited to attend the meeting scheduled for November 30, 1999, 6—8 p.m., at the Waianae Public Library, 85625 Farrington Hwy., Waianae, HI 96792.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Marilyn Luipold, (see **ADDRESSES**), 808–973–2937 (voice) or 808–973–2941 (fax), at least 5 days before the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 2, 1999.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–29081 Filed 11–4–99; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 64, No. 214
Friday, November 5, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Issue an Easement To Access Private Land in the Taylor Fork Area; Gallatin National Forest, Gallatin County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) to disclose the environmental effects of issuing an easement to access private land in the Taylor Fork area. The Federal Land Policy and Management Act (FLPMA, Pub. L. 94–579, 10/21/76) provided authority for the Forest Service to condition private requests for road access and use upon the private party's grant of reciprocal acquisition of USDA easements from the private landowner for the following facility: Public and administrative trail easement across Section 1 for the Eldridge Creek Trail and the Lincoln Mountain Trail.

DATES: Written comments and suggestions should be received on or before December 6, 1999.

ADDRESSES: Submit written comments and suggestions on this proposed activity or a request to be placed on the project mailing list to Gary 'Stan' Benes, District Ranger, Hebgen Lake Ranger District, Gallatin National Forest, P.O. Box 520, West Yellowstone, Montana, 59758.

FOR FURTHER INFORMATION CONTACT: Cathey Hardin, EIS Team Leader, Phone (406) 646–7369.

SUPPLEMENTARY INFORMATION: Private landowner has requested access across National Forest System land. Section 1323(a) of the Alaskan National Interest Lands Conservation Act (ANILCA) provides for a right of access to non-federally owned land. Federal Land Policy and Management Act of October, 1976 (FLPMA, Pub. L. 94–579) provides authority for the Forest Service to issue permits to private landowner. Landowners shall be authorized such access as the authorized officer deems to be adequate to secure them the reasonable use and enjoyment of their land (36 CFR 251.110 (c)). The Gallatin National Forest Land and Resource Management Plan provides guidance for land management activities, including access to private landowners.

The proposed access is located on Forest Service System land in Section 12, T.9S., R.3E., in the Taylor Fork area. Access would require the construction of a bridge across Taylor Fork Creek and approximately 400 feet of road reconstruction, or up to approximately ¼ mile of road construction. The landowner would be responsible for the bridge and road construction meeting Forest Service design. The private landowner will be required to obtain a 310 or 124 permit from Montana State Fish, Wildlife and Parks before any bridge construction.

One of the standards of the Gallatin Forest Plan is that rights-of-way across National Forest System lands will be granted in situations involving a statutory right of access, subject to compliance with applicable rules and regulations of the Secretary of Agriculture. The proposed access is located within Management Area 15, and Management Area 7 when crossing Taylor Fork Creek. Below are the management goals.

Management Area 15: 1. Meet grizzly bear mortality reduction goals as established by the Interagency Grizzly Bear Committee. 2. Manage vegetation to provide habitat necessary to recover the grizzly bear. 3. Provide forage for livestock consistent with goal 1. 4. Provide dispersed recreation opportunities consistent with goal 1.

Management Area 7: Manage the riparian resource to protect the soil, water, vegetation, fish, and wildlife dependent upon it.

The Forest Service will consider a range of alternatives. The IES will analyze the direct, indirect, and cumulative environmental effects of the alternatives. Past, present, and projected activities on both private and National Forest lands will be considered. The EIS will disclose the analysis of site specific mitigation measures and their effectiveness.

Public participation is an important part of the analysis, commencing with the initial scoping process (40 CFR 1501.7). A scoping document was mailed to interested individuals and groups in January of 1999. The comment period has been extended. The public is welcome to visit Forest Service officials anytime during the analysis and prior to the decision. No public meetings are scheduled at this time. The following issues have been identified so far:

1. Potential effects to westslope cutthroat trout and arctic grayling trout.
2. Potential effects on water quality and stream condition of Taylor Fork Creek.
3. Potential effects to grizzly bear habitat.
4. Potential effects to elk habitat. Including elk calving, cumulative effects of road densities, hiding and thermal cover.
5. Potential effects to recreation.

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in February of 2000. At that time, the EPA will publish a Notice of Availability of the Draft EIS in the **Federal Register**. The comment period on the Draft EIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register**. It is very important that those interested in this project participate at that time. The Final EIS is scheduled to be completed by May, 2000.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court ruling related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alters an agency to the reviewers' position and contention. *Vermont Yankee Nuclear Power Corp.* v. *NRDS, 435 U.S. 519,553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the court. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris.* 490 S. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 30

days scoping comment so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in developing issues and alternatives. To assist the Forest Service in identifying and considering issues, comments should be as specific to this proposal as possible. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act 40 CFR 1503.3 in addressing these points.

I am the responsible official for this environmental impact statement.

Dated: October 26, 1999.

Gary L. 'Stan' Benes,

District Ranger.

[FR Doc. 99–28989 Filed 11–4–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of the Advisory Committee on Agriculture Statistics Meeting

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, the National Agricultural Statistics Service (NASS) announces a meeting of the Advisory Committee on Agriculture Statistics.

FOR FURTHER INFORMATION CONTACT: Rich Allen, Executive Director, Advisory Committee on Agriculture Statistics, U.S. Department of Agriculture, National Agricultural Statistics Service, 1400 Independence Avenue SW, Room 4117 South Building, Washington, DC 20250–2000. Telephone: 202–720–4333, Fax: 202–720–9013, or e-mail: rallen@nass.usda.gov.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Agriculture Statistics, which consists of 25 members appointed from 7 categories covering a broad range of agricultural disciplines and interests, has scheduled an Advisory Committee on Agriculture Statistics meeting, November 30–December 1, 1999. The Committee meeting will be held 8 a.m.–8 p.m. on Tuesday, November 30 and 8 a.m.–11:30 a.m. on Wednesday, December 1. During this time the Advisory Committee will (1) elect a committee chair; (2) review NASS survey procedures and products; (3) discuss NASS program review; and (4) discuss future agriculture statistics issues.

Dates and Locations:

November 30—8 a.m. to 11:30 a.m., Advisory Committee General Meeting, Jamie L. Whitten Federal Building, Room 104A, 12th and Jefferson Davis Drive, SW, Washington, DC.

November 30—1 p.m. to 5 p.m., Advisory Committee General Meeting, DoubleTree Hotel, 300 Army Navy Drive, Arlington, VA.

November 30—5:30 p.m. to 8 p.m., Special Session with a Guest Speaker, DoubleTree Hotel, 300 Army Navy Drive, Arlington, VA.

December 1—8 a.m. to 11:30 a.m., Advisory Committee General Meeting, with an opportunity for public questions and comments at 10 a.m., DoubleTree Hotel, 300 Army Navy Drive, Arlington, VA.

Note: Meeting location may vary.

Type of Meeting: Open to the public.

Comments: The public may file written comments to the USDA Advisory Committee contact person before or within a reasonable time after the meeting. All statements will become a part of the official records of the USDA Advisory Committee on Agriculture Statistics and will be kept on file for public review in the office of the Executive Director, Advisory Committee on Agriculture Statistics, U.S. Department of Agriculture, Washington, DC 20250.

Signed at Washington, DC, November 1, 1999.

Donald M. Bay,

Administrator, National Agricultural Statistics Service.

[FR Doc. 99–29045 Filed 11–4–99; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

Sunshine Act Meeting; Staff Briefing for the Board of Directors

TIME AND DATE: 2:00 p.m., Monday, November 8, 1999.

PLACE: Room 5030, South Building, Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC.

STATUS: Open.

MATTERS TO BE DISCUSSED:

1. Current telecommunications industry issues.
2. Fiscal year 2000 agency budget.
3. Status of PBO planning and general discussion on privatization of the Bank.
4. Options relating to the conversion of B stock to C stock.
5. Current method for allocating patronage refunds to class B stockholders.
6. Administrative issues.

ACTION: Board of Directors Meeting; Correction.

TIME AND DATE: 9:00 a.m., Tuesday, November 9, 1999.

PLACE: The Williamsburg Room, Room 104–A, Jamie L. Whitten Building, Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the Board of Directors meeting:

1. Call to order.
2. Action on Minutes of the August 6, 1999, board meeting.
3. Report on loans approved in FY 1999.
4. Summary of financial activity for FY 1999.
5. Privatization committee report.
6. Consideration of resolution to convert class B stock to class C stock.
7. Consideration of resolution of appreciation for former Governor Wally Beyer.
8. Establish dates and locations for Year 2000 board meetings.
9. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Roberta D. Purcell, Assistant Governor, Rural Telephone Bank, (202) 720–9554.

Dated: November 3, 1999.

Christopher A. McLean,

Acting Governor, Rural Telephone Bank.

[FR Doc. 99–29107 Filed 11–3–99; 10:37 am]

BILLING CODE 3410–15–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 6, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely

Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Knife, Kitchen
7340–00–406–6531
7340–00–686–0863
NPA: Suburban Adult Services, Inc., Sardinia, New York
Holder, Card
7510–00–155–5174
NPA: York County Blind Center, York, Pennsylvania

Services

Administrative/General Support Services, Department of Justice, Federal Bureau of Prisons, Federal Correctional Institution, Cumberland, Maryland
NPA: Columbia Lighthouse for the Blind, Washington, DC
Administrative Services, Puget Sound Area, Navy Region Northwest, Bremerton, Washington
NPA: St. Vincent DePaul Rehabilitation Service, Inc., Portland, Oregon
Commissary Shelf Stocking, Custodial and Warehousing, Grand Forks Air Force Base, North Dakota
NPA: Minot Vocational Adjustment Workshop, Inc., Minot, North Dakota

Janitorial/Grounds Maintenance

Oxnard Border Patrol Station, 275 Skyway Drive, Camarillo, California
NPA: Association for Retarded Citizens—Ventura County, Inc., Ventura, California
Operation of Individual Equipment Element Store, Altus Air Force Base, Oklahoma
NPA: San Antonio Lighthouse, San Antonio, Texas
Operation of Individual Equipment Element Store, Goodfellow Air Force Base, Texas
NPA: San Antonio Lighthouse, San Antonio, Texas

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodities to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Fasteners, Fence Post
5660–00–148–7251
Stay, Fence
5660–00–943–9927
5660–00–904–8023
5660–00–607–0286
5660–00–607–0287
Water Bag, Nylon Duck
8465–01–185–5511

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–29051 Filed 11–4–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: December 6, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On June 11, July 23, August 13, 20, and 27, and September 10, and 24, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (64 FR 31539, 39968, 44198, 45506, 46880, 49147 and 51736) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodity and

services proposed for addition to the Procurement List.

Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Folder, File, Farmer's Home Administration
7530–FMHA ITEM 39

Services

Administrative Services, Federal Center/ Battle Creek, Defense Reutilization & Marketing Service (DRMS), 74 North Washington, Battle Creek, Michigan
Base Supply Center, New London U.S. Naval Submarine Base, Groton, Connecticut
Commissary Shelf Stocking, Custodial and Warehousing, Camp Pendleton, California
Grounds Maintenance, Naval and Marine Corps Reserve Center, 6735 North Basin Avenue, Portland, Oregon
Grounds Maintenance, Naval Air Station, Joint Reserve Base, Fort Worth, Texas
Grounds Maintenance, Keyport Naval Undersea Warfare Center, Keyport, Washington
Janitorial/Custodial, Naval Reserve Center 7401 W. Roosevelt Road, Forest Park, Illinois

Janitorial/Custodial

Gamelin USARC, Bristol, Rhode Island
Management and Operation of Depoty Safety Store, Corpus Christi Army Depot, Corpus Christi, Texas

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–29052 Filed 11–4–99; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995 Public Law 104–13.

Agency: Bureau of Economic Analysis, DOC.

Title: Institutional Remittances to Foreign Countries.

Form Number(s): BE–40.

Agency Approval Number: 0608–0002.

Type of Request: Renewal of an existing collection.

Burden: 1,521 reporting hours.

Number of respondents: 480.

Average Hours Per Response: 1.5 hours.

Needs and Uses: The survey is required in order to obtain comprehensive initial data concerning the cash transfer by private U.S. institutions to foreign countries and their expenditures in foreign countries. The data are needed primarily to compile the U.S. international accounts.

Affected Public: U.S. Institutions.

Frequency: Quarterly for institutions transferring $1 million or more each year, annually for all others.

Respondents Obligation: Voluntary.

OMB Desk Officer: Paul Bugg 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Forms Clearance Officer, Linda Engelmeier, (202) 482–3272, Department of Commerce, Room 5027, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Paul Bugg, OMB Desk Officer, Room 10201, New Executive Office Building, Washington, DC 20503.

Dated: November 2, 1999.

Madeleine Clayton,

Management Analyst, Office of the Chief Financial Officer.

[FR Doc. 99–29065 Filed 11–4–99; 8:45 am]

BILLING CODE: 3510–CW–U

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 53–99]

Foreign-Trade Zone 68—El Paso, TX; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of El Paso, Texas, grantee of FTZ 68, requesting authority to expand its zone in El Paso, Texas, within the El Paso Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 26, 1999.

FTZ 68 was approved on April 14, 1981 (Board Order 175, 46 FR 22918; 4/22/81). On September 30, 1982, the grant of authority was reissued to the City of El Paso, Texas (Board Order 193, 47 FR 45065; 10/13/82). The zone was expanded in 1984 (Board Order 255, 49 FR 22842; 6/1/84), in 1991 (Board Order 504, 56 FR 1166; 1/11/91) and in 1999 (Board Order 1019, 64 FR 5765; 2/5/99). FTZ 68 currently consists of five sites (2,635 acres) in the El Paso, Texas, area:

Site 1 (590 acres)—El Paso Airport's Butterfield Trail Industrial Park;

Site 2 (670 acres)—Lower Valley Site, which is composed of the Americas Avenue/ Zaragoza Bridge Industrial Parks (470 acres), the Americas Industrial Park (60 acres), and two adjacent parcels owned by Alderete Farms & Development (140 acres). In addition, a minor boundary modification was approved in June of 1998 (A(27f)21–98) to temporarily include a nearby site (Thomson, 44 acres, expires 7/1/02).

Site 3 (1,150 acres)—includes the Eastern Region Industrial Park sites located at Americas Avenue and Interstate 10 in eastern El Paso (700 acres), the entire 10/375 Industrial Park and two adjacent parcels (210 acres) and a 240-acre tract within the 2,230-acre Vista del Sol Industrial Park;

Site 4 (130 acres)—Copperfield Industrial Park located on Hawkins Boulevard at Tony Lama Street in Central El Paso, and;

Site 5 (95 acres)—WWF Industries Park located on Highway 54 in northeastern El Paso.

The applicant is now requesting authority to update, expand and reorganize Sites 2 and 3 as described below. The proposal includes a request to restore zone status to parcels (located within the existing or proposed zone sites) that had been deleted from the zone boundary in earlier changes.

Site 2: Include the entire 145-acre industrial development in Socorro, of which the existing Thomson site is a part, thereby making it a permanent zone site, and add a 17-acre parcel adjacent to the Pan American Center for Industry increasing the size of Site 2 to 832 acres.

Site 3: Clarify existing FTZ boundaries (1029 acres) and include the 232-acre Montana Avenue site located east of Loop 375 within the zone boundary and increase the Vista del Sol Industrial Park Site by 95 acres (including the reinstatement of the 58 acres previously deleted), increasing the size of Site 3 to 1,356 acres.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 4, 2000. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to January 19, 2000).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, 797 S. Zaragoza Road, El Paso, Texas 79907

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 4008, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: October 29, 1999.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–29063 Filed 11–4–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Government Trade Event Information Request

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burdens, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 4, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms, Clearance Officer, (202) 482–3272, Email *Lengelme@doc.gov.*, Department of Commerce, Room 5027, 14th & Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the information collection instrument and instructions should be directed to: Susan Hamrock, The Advocacy Center, Room 3814A, The U.S. Department of Commerce, 14th & Constitution Ave., NW, Washington, DC 20230; Phone number: (202) 482–3896, and fax number: (202) 482–3508.

SUPPLEMENTARY INFORMATION:

I. Abstract

The International Trade Administration's Advocacy Center marshals federal resources to assist U.S. firms competing for foreign government procurements worldwide. The Advocacy Center is under the umbrella of the Trade Promotion Coordination Committee (TPCC), which is chaired by the Secretary of Commerce and includes 19 federal agencies involved in export promotion. The mission of the Advocacy Center is to promote U.S. exports and create U.S. jobs and coordinate U.S. Government (USG) advocacy among the TPCC. The purpose of the questionnaire is to collect the necessary information to make an evaluation as to whether a firm qualifies for senior-level USG support, in the form of attendance at an event including witnessing a commercial agreement signing. The event could be a company sponsored activity or a foreign or USG sponsored event to highlight a commercial trade success for more than one firm. Without this information we will be unable to determine if a U.S. firm is eligible for USG support for the firm's role in the event.

II. Method of Collection

Form ITA–4136P is sent to U.S. firms that request USG advocacy assistance.

III. Data

OMB Number: None.
Form Number: ITA–4136P.
Type of Review: Regular Submission.
Affected Public: Companies who desire senior level USG support a trade activity.
Estimated Number of Respondents: 50.
Estimated Time Per Response: 1 hour.
Estimated Total Annual Burden Hours: 50 hours.
Estimated Total Annual Costs: The estimated annual cost for this collection is $3,000. ($1,250 for federal government and $1,750 for respondents).

IV. Request for Comments

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 1, 1999.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 99–28980 Filed 11–4–99; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–813]

1997/1998 Antidumping Duty Administrative Review of Canned Pineapple Fruit From Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce is extending the time limit of the final results of the 1997/1998 antidumping duty administrative review of canned pineapple fruit from Thailand. This review covers the period July 1, 1997, through June 30, 1998.

EFFECTIVE DATE: November 5, 1999.

FOR FURTHER INFORMATION CONTACT: Charles Riggle, AD/CVD Enforcement, Group 2, Office 5, Import Administration, International Trade Administration, US Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0650.

SUPPLEMENTARY INFORMATION: The Department of Commerce is extending the time limit for completion of this administrative review until December 6, 1999 because it is not practicable to complete it within the original time limit or the time limit specified in *1997/1998 Antidumping Duty Administrative Review of Canned Pineapple Fruit from Thailand*, 64 FR 55697 (October 14, 1999). The proposed completion date of December 6, 1999 is within the limits set forth in section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994.

This extension is in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (19 U.S.C. 1675 (a)(3)(A)).

Dated: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary For Import Administration.

[FR Doc. 99–29060 Filed 11–4–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–811, A–588–849, A–549–814]

Notice of Preliminary Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 5, 1999.

FOR FURTHER INFORMATION CONTACT: LaVonne Jackson at (202) 482–3003 or Gabriel Adler at (202) 482–1442, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 1999).

Preliminary Determinations

We preliminarily determine that cold-rolled flat-rolled carbon-quality steel products (''cold-rolled steel products'') from Argentina, Japan, and Thailand are being sold, or are likely to be sold, in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

Case History

These investigations were initiated on June 21, 1999. *See Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Argentina, Brazil, the People's Republic of China, Indonesia, Japan, the Russian Federation, Slovakia, South Africa, Taiwan, Thailand, Turkey, and Venezuela* (''*Initiation Notice*''), 64 FR 34194 (June 25, 1999). Since the initiation of the investigations, the following events occurred:

On June 22, 1999, the Department issued Section A antidumping questionnaires to all known producers/exporters of subject merchandise, including those named in the petitions. The Department received responses to this questionnaire from Siderar Limited (''Siderar''), in the Argentina proceeding, and Nippon Steel Corporation (''NSC''), Kawasaki Steel Corporation (''KSC''), NKK Corporation (''NKK'') and Sumitomo Metals Industries, Ltd. (''Sumitomo'') in the Japan proceeding. The Department did not receive responses to the questionnaire from the following companies: Kobe Steel Ltd. (''Kobe''), and Nisshin Steel Co., Ltd. (''Nisshin) in the Japan proceeding, or TCRSSC/Sahaviriya (the sole producer and exporter of subject merchandise from Thailand during the POI [1]), in the Thailand proceeding.

On July 9, 1999, the Department selected the following companies as mandatory respondents in these investigations: Siderar (the sole Argentine producer of subject merchandise) in the Argentina proceeding; NSC and KSC in the Japan proceeding; and TCRSSC/Sahaviriya in the Thailand proceeding. *See* Respondent Selection, below. On July 9, 1999, the Department issued Section B, C, and D antidumping questionnaires to each of the selected respondents.

On July 16, 1999, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of the products subject to each of these antidumping investigations are materially injuring the United States industry. See *Certain Cold-Rolled Steel Products from Argentina, Brazil, China, Indonesia, Japan, Russia, Slovakia, South Africa, Taiwan, Thailand, Turkey and Venezuela,* 64 FR 41458 (July 30, 1999).

In August 1999, the mandatory respondent in the Thailand case notified the Department that it would not be responding at all to the Department's questionnaire, and all the mandatory respondents in the Argentina and Japan proceedings notified the Department that they would not be responding to the Section B, C, and D questionnaires.

Period of Investigations

The period of the investigations (POI) is April 1, 1998, through March 31, 1999. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, June 1999).

[1] On July 8, 1999, the Royal Thai Embassy in Washington, DC confirmed that Thai Cold Rolled Steel and Sheet Company (''TCRSSC''), an affiliate of Sahaviriya Steel Industries Public Co., Ltd., collectively ''TCRSSC/Sahaviriya'', was the only Thai exporter of subject merchandise to the United States during the POI. *See Memorandum to the File: Conversation with Royal Thai Embassy* (''*Conversation with Thai Embassy*''), (July 8, 1999).

Scope of Investigations

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products, neither clad, plated, nor coated with metal, but whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances, both in coils, 0.5 inch wide or wider, (whether or not in successively superimposed layers and/or otherwise coiled, such as spirally oscillated coils), and also in straight lengths, which, if less than 4.75 mm in thickness having a width that is 0.5 inch or greater and that measures at least 10 times the thickness; or, if of a thickness of 4.75 mm or more, having a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (''IF'')) steels, high strength low alloy (''HSLA'') steels, and motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedules of the United States (''HTSUS''), are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight, and; (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium (also called columbium), or

0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this investigation:

- SAE grades (formerly also called AISI grades) above 2300;
- Ball bearing steels, as defined in the HTSUS;
- Tool steels, as defined in the HTSUS;
- Silico-manganese steel, as defined in the HTSUS;
- Silicon-electrical steels, as defined in the HTSUS, that are grain-oriented;
- Silicon-electrical steels, as defined in the HTSUS, that are not grain-oriented and that have a silicon level exceeding 2.25 percent;
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507);
- Silicon-electrical steels, as defined in the HTSUS, that are not grain-oriented and that have a silicon level less than 2.25 percent, and

(a) Fully-processed, with a core loss of less than 0.14 watts/pound per mil (.001 inches), or

(b) Semi-processed, with core loss of less than 0.085 watts/pound per mil (.001 inches);

- Certain shadow mask steel, which is aluminum killed cold-rolled steel coil that is open coil annealed, has an ultra-flat, isotropic surface, and which meets the following characteristics:

Thickness: 0.001 to 0.010 inches
Width: 15 to 32 inches

CHEMICAL COMPOSITION

Element	C
Weight %	< 0.002%

- Certain flapper valve steel, which is hardened and tempered, surface polished, and which meets the following characteristics:

Thickness: ≤1.0 mm
Width: ≤ 152.4 mm

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S
Weight %	0.90–1.05	0.15–0.35	0.30–0.50	≤ 0.03	≤ 0.006

MECHANICAL PROPERTIES

Tensile Strength	≥ 162 Kgf/mm^2
Hardness	≥ 475 Vickers hardness number

PHYSICAL PROPERTIES

Flatness	< 0.2% of nominal strip width

Microstructure: Completely free from decarburization. Carbides are spheroidal and fine within 1% to 4% (area percentage) and are undissolved in the uniform tempered martensite.

NON-METALLIC INCLUSION

	Area percentage
Sulfide Inclusion	≤ 0.04
Oxide Inclusion	≤ 0.05

Compressive Stress: 10 to 40 Kgf/mm2.

SURFACE ROUGHNESS

Thickness (mm)	Roughness (μm)
t ≤ 0.209	Rz ≤ 0.5
0.209 < t ≤ 0.310	Rz ≤ 0.6
0.310 < t ≤ 0.440	Rz ≤ 0.7
0.440 < t ≤ 0.560	Rz ≤ 0.8
0.560 < t	Rz ≤ 1.0

- Certain ultra thin gauge steel strip, which meets the following characteristics:

Thickness: ≤ 0.100 mm ±7%
Width: 100 to 600 mm

CHEMICAL COMPOSITION

Element Weight %	C ≤ 0.07	Mn 0.2—0.5	P ≤ 0.05	S ≤ 0.05	Al ≤ 0.07	Fe Balance

MECHANICAL PROPERTIES

Hardness	Full Hard (Hv 180 minimum)
Total Elongation	< 3%
Tensile Strength	600 to 850 N/mm^2

PHYSICAL PROPERTIES

Surface Finish	≤ 0.3 micron
Camber (in 2.0 m)	< 3.0 mm
Flatness (in 2.0 m)	≤ 0.5 mm
Edge Burr	< 0.01 mm greater than thickness
Coil Set (in 1.0 m)	< 75.0 mm

• Certain silicon steel, which meets the following characteristics:

Thickness: 0.024 inches ±.0015 inches
Width: 33 to 45.5 inches

CHEMICAL COMPOSITION:

Element	C	Mn	P	S	Si	Al
Min. Weight %	.....	.....	.....	.....	0.65	.....
Max. Weight %	0.004	0.4	0.09	0.009	.....	0.4

MECHANICAL PROPERTIES

Hardness	B 60–75 (AIM 65)

PHYSICAL PROPERTIES

Finish	Smooth (30–60 microinches)
Gamma Crown (in 5 inches)	0.0005 inches, start measuring ¼ inch from slit edge
Flatness	20 I–UNIT max.
Coating	C3A–.08A max. (A2 coating acceptable)
Camber (in any 10 feet)	1/16 inch
Coil Size I.D	20 inches

MAGNETIC PROPERTIES

Core Loss (1.5T/60 Hz) NAAS	3.8 Watts/Pound max.
Permeability (1.5T/60 Hz) NAAS	1700 gauss/oersted typical 1500 minimum

• Certain aperture mask steel, which has an ultra-flat surface flatness and which meets the following characteristics:

Thickness: 0.025 to 0.245 mm
Width: 381—1000 mm

CHEMICAL COMPOSITION

Element	C	N	Al
Weight %	<0.01	0.004 to 0.007	<0.007

• Certain tin mill black plate, annealed and temper-rolled, continuously cast, which meets the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Si	Al	As	Cu	B	N
Min. Weight %	0.02	0.20	.....	.....	.....	0.03	.....	.....	.....	0.003
Max. Weight %	0.06	0.40	0.02	[1] 0.023	0.03	0.08	0.02	0.08	.....	[2] 0.008

[1] Aiming 0.018 Max.
[2] Aiming 0.05
[3] Aiming 0.005.

Non-metallic Inclusions: Examination with the S.E.M. shall not reveal individual oxides > 1 micron (0.000039 inches) and inclusion groups or clusters shall not exceed 5 microns (0.000197 inches) in length.

Surface Treatment as follows: The surface finish shall be free of defects (digs, scratches, pits, gouges, slivers, *etc.*) and suitable for nickel plating.

SURFACE FINISH

	Roughness, RA Microinches (Micrometers)		
	Aim	Min.	Max.
Extra Bright	5(0.1)	0(0)	7(0.2)

- Certain full hard tin mill black plate, continuously cast, which meets the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Si	Al	As	Cu	B	N
Min. Weight %	0.02	0.20	.....	.....	.....	0.03	.....	.....	.....	0.003
Max. Weight %	0.06	0.40	0.02	[1] 0.023	0.03	0.08	0.02	0.08	.....	[3] 0.008

[1] Aiming 0.018 Max.
[2] Aiming 0.005
[3] Aiming 0.005.

Non-metallic Inclusions: Examination with the S.E.M. shall not reveal individual oxides > 1 micron (0.000039 inches) and inclusion groups or clusters shall not exceed 5 microns (0.000197 inches) in length.

Surface Treatment as follows: The surface finish shall be free of defects (digs, scratches, pits, gouges, slivers, *etc.*) and suitable for nickel plating.

SURFACE FINISH

	Roughness, RA Microinches (Micrometers)		
	Aim	Min.	Max.
Stone Finish	16(0.4)	8(0.2)	24(0.6)

- Certain ''blued steel'' coil (also know as ''steamed blue steel'' or ''blue oxide'') with a thickness and size of 0.38 mm × 940 mm × coil, and with a bright finish;
- Certain cold-rolled steel sheet, which meets the following characteristics:

Thickness (nominal): ≤ 0.019 inches
Width: 35 to 60 inches

CHEMICAL COMPOSITION

Element	C	O	B
Max. Weight %	0.004	.....	.....
Min. Weight %	.....	0.010	0.012

- Certain band saw steel, which meets the following characteristics:

Thickness: ≤ 1.31 mm
Width: ≤ 80 mm

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S	Cr	Ni
Weight %	1.2 to 1.3	0.15 to 0.35	0.20 to 0.35	≤0.03	≤0.007	0.3 to 0.5	≤0.25

Other properties:

Carbide: fully spheroidized having <80% of carbides, which are ≤0.003 mm and uniformly dispersed

Surface finish: bright finish free from pits, scratches, rust, cracks, or seams Smooth edges

Edge camber (in each 300 mm of length): ≤7 mm arc height Cross bow (per inch of width): 0.015 mm max.

The merchandise subject to this investigation is typically classified in the HTSUS at subheadings: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2550, 7209.18.6000. 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.19.0000, 7225.50.6000, 7225.50.7000, 7225.50.8010, 7225.50.8085, 7225.99.0090, 7226.19.1000, 7226.19.9000, 7226.92.5000, 7226.92.7050, 7226.92.8050, and 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (''U.S. Customs'') purposes, the written description of the merchandise under investigation is dispositive.

The Department set aside a period for all interested parties to raise issues regarding product coverage. From July through October 1999, the Department received responses from a number of parties including importers, respondents, consumers, and petitioners, aimed at clarifying the scope of the investigation. *See Memorandum to Joseph A. Spetrini (''Scope Memorandum''*), November 1, 1999, for a list of all persons submitting comments and a discussion of all scope comments. There are several scope exclusion requests for products which are currently covered by the scope of this investigation that are still under consideration by the Department. These items are considered to be within the scope for this preliminary determination; however, these requests will be reconsidered for the final determination. *See Scope Memorandum*.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) A sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can be reasonably examined.

After consideration of the complexities expected to arise in these proceedings and the resources available to the Department, we determined that it was not practicable in these investigations to examine all known producers/exporters of subject merchandise. This was not a concern in the investigations involving Argentina and Thailand, since there was only one producer/exporter of subject merchandise in each of those countries during the POI. However, with respect to Japan, which had multiple producers/exporters of subject merchandise during the POI, we determined that, given our resources, we would be able to investigate two such companies. The respondents selected for Japan were those with the greatest export volume; together they accounted for more than 50 percent of all known exports of the subject merchandise during the POI from Japan. For a more detailed discussion of respondent selection in these investigations, *see Respondent Selection Memorandum* (July 9, 1999).

Facts Available

The following companies failed to respond to our questionnaires: Siderar in the Argentina case; NSC, KSC, Kobe, and Nisshin in the Japan case; and TCRSSC/Sahaviriya in the Thailand case. Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to section 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination. Because Siderar, NSC, KSC, Kobe, Nisshin and TCRSSC/Sahaviriya failed to respond to our questionnaire, pursuant to section 776(a)(2)(A) of the act we resorted to facts otherwise available to calculate the dumping margins for these companies.

Section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See also* Statement of Administrative Action (''SAA'') accompanying the URAA, H.R. Rep. No. 103–316 at 870 (1994) (SAA). Failure by Siderar, KSC, NSC, Kobe, Nisshin, and TCRRSC/Sahaviriya to respond to the Department's antidumping questionnaire constitutes a failure to act to the best of their ability to comply with a request for information, within the meaning of section 776 of the Act. Because Siderar, KSC, NSC, Kobe, Nisshin, and TCRSSC/Sahaviriya failed to respond, the Department has determined that, in selecting among the facts otherwise available, an adverse inference is warranted in selecting the facts available for these companies.

Because we were unable to calculate margins for the respondents in Argentina, Japan, or Thailand, consistent with Department practice, we assigned these respondents, in the cases of Argentina and Thailand, the highest margins alleged in the amendments to the respective petitions and in the case of Japan, the highest margin alleged in the petition. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Germany (''Wire Rod from Germany''*), 63 FR 10847 (March 5, 1998). The highest petition margins are 24.53 percent for Argentina, 53.04 percent for Japan, and 80.67 percent for Thailand. *See Initiation Notice.*

Section 776(b) states that an adverse inference may include reliance on information derived from the petition. *See also* SAA at 829–831. Section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition) in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.

The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to

be used has probative value (*see* SAA at 870). The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation (*see* SAA at 870).

We reviewed the adequacy and accuracy of the information in the petitions during our pre-initiation analysis of the petitions, to the extent appropriate information was available for this purpose. *See Import Administration AD Investigation Initiation Checklist* (June 21, 1999), for a discussion of the margin calculations in the petitions. In addition, in order to determine the probative value of the margins in the petitions for use as adverse facts available for purposes of this determination, we examined evidence supporting the calculations in the petitions. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (''EP'') and normal value (''NV'') calculations on which the margins in the petitions were based. Our review of the EP and NV calculations indicated that the information in the petitions has probative value, as certain information included in the margin calculations in the petitions is from public sources concurrent, for the most part, with the POI (*e.g.*, international freight and insurance, customs duty, interest rates). For purposes of this preliminary determination, the Department compared the export prices alleged by the petitioners for sales to unaffiliated first purchasers with contemporaneous, average unit values of U.S. imports classified under the appropriate HTS number. We noted that the U.S. price quotes of the per unit values of the subject merchandise derived by the petitioners were well within the range of the average unit values reported by U.S. Customs. U.S. official import statistics are sources which we consider to require no further corroboration by the Department. *See Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From the People's Republic of China,* 62 FR 51410, (October 1, 1997).

However, with respect to certain other data included in the margin calculations of the petition (*e.g.*, home market unit prices), neither respondents nor other interested parties provided the Department with further relevant information and the Department is aware of no other independent sources of information that would enable it to further corroborate the remaining components of the margin calculation in the petition. The implementing regulation for section 776 of the Act, at 19 CFR 351.308(c), states ''[t]he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using the secondary information in question.'' Additionally, we note that the SAA at 870 specifically states that, where ''corroboration may not be practicable in a given circumstance,'' the Department may nevertheless apply an adverse inference. Accordingly, we find, for purposes of this preliminary determination, that this information is sufficiently corroborated.

All Others

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-averaged dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. Our recent practice under these circumstances has been to assign, as the ''all others'' rate, the simple average of the margins in the petition. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Canada (''Stainless Steel Plate from Canada''),* 64 FR 15457 (March 31, 1999); *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Italy (''Stainless Steel Plate from Italy''),* 64 FR 15458, 15459 (March 21, 1999).

With respect to Argentina, because the petition contained only a single margin, and there is no other information on the record on which to base an ''all others'' rate, we have also based the ''all others'' rate on the sole petition margin, *i.e.*, 24.53 percent. *See Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod from Venezuela,* 63 FR 8946 (February 23, 1998). With respect to Japan, we are basing the ''all others'' rate on the simple average of margins in the petition, which is 39.28 percent. Finally, with respect to Thailand, we also are basing the ''all others'' rate on the simple average of margins in the amendment to the petition, which is 67.97 percent.

Critical Circumstances

The petitioners made a timely allegation, in the petitions, that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of subject merchandise from Japan and Thailand. According to section 733(e)(1) of the Act, if critical circumstances are alleged under section 733(e) of the Act, the Department must examine whether there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports during the ''relatively short period'' of over 15 percent may be considered ''massive.'' Section 351.206(i) of the Department's regulations defines ''relatively short period'' normally as the period beginning on the date the proceeding begins (i.e., the date the petition is filed) and ending at least three months later.

Because we are not aware of any antidumping order in any country on cold-rolled steel products from Japan or Thailand, we do not find that a reasonable basis to believe or suspect that there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise exists. Therefore, we must look to whether there was importer knowledge under section 733(e)(1)(A)(ii) of the Act.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that the exporter was selling the cold-rolled steel at less than fair value, the Department's normal practice is to consider for EP sales margins of 25 percent or more sufficient to impute knowledge of dumping. *See Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China,* 62 FR 31972, 31978 (June 11, 1997). As discussed above, we have applied, as adverse facts available for NSC, KSC, Kobe and Nisshin in the Japan investigation and TCRSSC/Sahaviriya in the Thailand investigation, the highest

of the dumping margins presented in the petitions and corroborated by the Department. These margins are in excess of 25 percent. Therefore, we impute knowledge of dumping in regard to exports by these companies.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that there was likely to be material injury by reason of dumped imports, the Department normally looks to the preliminary injury determination of the ITC.

If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department normally determines that a reasonable basis exists to impute importer knowledge that there was likely to be material injury by reason of dumped imports. The ITC has found that a reasonable indication of present material injury exists in regard to both Japan and Thailand. *See ITC Preliminary Determination.* As a result, the Department has determined that there is a reasonable basis to believe or suspect that importers knew or should have known that there was likely to be material injury by reason of dumped imports from NSC, KSC, Kobe, Nisshin and TCRRSC/Sahaviriya.

In determining whether there are ''massive imports'' over a ''relatively short period,'' the Department typically compares the import volume of the subject merchandise for at least three months immediately preceding and following the filing of the petition. Imports normally will be considered massive when imports have increased by 15 percent or more during this ''relatively short period.'' Since there is no verifiable information on the record with respect to NSC, KSC, Kobe, Nisshin, and TCRRSC/Sahaviriya's import volumes, we must use the facts available in accordance with section 776(a) of the Act. Accordingly, we examined U.S. Customs data on imports of cold-rolled steel products from Japan and Thailand in order to determine whether these data reasonably preclude an increase in shipments of 15 percent or more within a relatively short period for any of these companies.

These statistics, in the case of cold-rolled steel from Japan, cover numerous HTS categories that include merchandise other than subject merchandise. Therefore, we cannot rely on these data in determining if massive shipments of cold-rolled steel from Japan occurred over a relatively short time. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Japan* (''*Stainless Steel from Japan*''), 64 FR 30574 (June 8, 1999). Moreover, these data do not permit the Department to ascertain the import volumes for any individual company that failed to provide verifiable information. As a result, in accordance with section 776(b) of the Act, we have used an adverse inference in applying facts available, and determine that there were massive imports from NSC, KSC, Kobe, and Nisshin during a relatively short period. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails from Taiwan* (''*Roofing Nails from Taiwan*''), 62 FR 51427 (October 1, 1997) and *Notice of Final Determination of Sales at Less Than Fair Value and Final Affirmative Finding of Critical Circumstances: Elastic Rubber Tape from India* (''*Elastic Rubber Tape from India*''), 64 FR 19123 (April 19, 1999). Because all of the necessary criteria have been met, in accordance with section 733(e)(1) of the Act, the Department preliminarily finds that critical circumstances exist with respect to cold-rolled steel products imported from NSC, KSC, Kobe, and Nisshin.

With respect to Thailand, we were able to determine that the U.S. Customs data on imports of cold-rolled steel products from Thailand covers HTS categories that include only subject merchandise. Based on our analysis of these statistics and other information on the record, we determined that massive imports of subject merchandise from TCRSSC/Sahaviriya did not occur over the comparison period (three months following the filing of the petition). Because the criterion necessary to find critical circumstances, in accordance with section 733(e)(1) of the Act, has not been met, the Department preliminarily finds that critical circumstances do not exist for imports of cold-rolled steel products from Thailand imported from TCRSSC/Sahaviriya.

It is the Department's normal practice to conduct its critical circumstances analysis of companies in the ''all others'' group based on the experience of investigated companies. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey* (''*Rebars from Turkey*''), 62 FR 9737, 9741 (March 4, 1997) (the Department found that critical circumstances existed for the majority of the companies investigated, and therefore concluded that critical circumstances also existed for companies covered by the ''all others'' rate). However, the Department does not automatically extend an affirmative critical circumstances determination to companies covered by the ''all others'' rate. *See Stainless Steel from Japan.* Instead, the Department considers the traditional critical circumstances criteria with respect to the companies covered by the ''all others'' rate.

Consistent with *Stainless Steel from Japan,* the Department has, in this case, applied the traditional critical circumstances criteria to the ''all others'' category for the antidumping investigations of cold rolled steel from Japan and Thailand. First, the dumping margins for the ''all others'' categories, 39.28 percent for Japan and 67.97 percent for Thailand (*see Suspension of Liquidation,* below), exceed the 25 percent threshold necessary to impute knowledge of dumping. Second, based on the ITC's preliminary material injury determination, we also find that importers knew or should have known that there would be material injury from sales of the dumped merchandise by respondents other than NSC, KSC, Kobe, Nisshin and TCRSSC/ Sahaviriya.

However, the Department has not found that there are massive imports for the ''all others'' companies in the Japan and Thailand investigations. First, we have not used adverse facts available concerning massive imports. Unlike the mandatory respondents and other companies that refused to provide information upon request at the outset of the case, the ''all others'' companies have not failed to act to the best of their ability. The Department does not use adverse inferences with respect to firms whose individual data have not been analyzed due to the Department's own administrative constraints, as is the case in the Japan proceeding.[2] *See, e.g., Notice of Preliminary Critical Circumstances Determination: Honey from the People's Republic of China,* 60 FR 29824, (June 6, 1995)). Second, there is no evidence of massive imports from ''all others'' companies in the Japan and Thailand cases.

While we normally rely on our findings for the selected mandatory respondents, in the Japan case our determinations with respect to all of the mandatory respondents were based on adverse facts available. Therefore, we have not used these findings as a basis for our determination with respect to all other companies. Further, in accordance with *Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan,* 64 FR 24239 (May 6, 1999), the Department considered whether U.S. Customs data on imports of cold rolled steel products from Japan

[2] As far as the Department has been able to determine, there was only a single producer/exporter of subject merchandise from Thailand during the POI.

could be used to make a determination regarding the ''all others'' category. In the case of Japan, however, these statistics cover numerous HTS categories that include merchandise other than subject merchandise. Therefore, we cannot rely on these data in determining if there were massive imports for the ''all others'' category for Japan. *See Stainless Steel from Japan.* The Department does not have any other data indicating massive imports from the companies in question. Therefore, the Department does not find massive imports with regard to the ''all others'' category in the Japan case.

In the case of Thailand, we determined that there were not massive imports from the one mandatory respondent. Although we made this determination on the basis of the facts available, we did not use an adverse inference. Therefore, we have considered this as evidence of no massive imports from all other companies. Further, we were able to analyze the U.S. Customs data on imports of cold rolled steel products from Thailand because these statistics did not include HTS categories covering merchandise other than subject merchandise. However, our analysis showed that massive imports did not occur during the ''relatively short period''. As a result, the Department does not find massive imports in regard to the ''all others'' categories in the Thailand case.

Because the massive imports criterion necessary to find critical circumstances has not been met with respect to firms other than NSC, KSC, Kobe, and Nisshin, the Department preliminarily finds that critical circumstances do not exist for the ''all others'' category in the Japan and Thailand investigations.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of cold-rolled steel products exported from Japan by KSC, NSC, Kobe and Nisshin that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date of publication of this notice in the **Federal Register**. For entries of cold-rolled steel products from Argentina and Thailand, and merchandise exported by all other companies in Japan, we are directing the U.S. Customs Service to suspend liquidation of those entries that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the dumping margin, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

The dumping margins are provided below.

Manufacturer/exporter	Margin (percent)
Argentina:	
Siderar Limited	24.53
All Others	24.53
Japan:	
Nippon Steel Corporation	53.04
Kawasaki Steel Corporation	53.04
Kobe Steel, Ltd	53.04
Nisshin Steel Co., Ltd	53.04
All Others	39.28
Thailand:	
TCRSSC/Sahaviriya	80.67
All Others	67.97

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determinations. If our final antidumping determinations are affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of these preliminary determinations or 45 days after the date of our final determinations.

Public Comment

For the investigations of cold-rolled steel products from Argentina, Japan and Thailand, case briefs must be submitted no later than 50 days after the publication of this notice in the **Federal Register**. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. In the event that the Department receives requests for hearings from parties to several cold-rolled cases, the Department may schedule a single hearing to encompass all those cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If these investigations proceed normally, we will make our final determinations in the investigations of cold-rolled steel products from Argentina, Japan and Thailand no later than 75 days after the date of this preliminary determination.

These determinations are published pursuant to sections 733(d) and 777(i)(1) of the Act.

Dated: November 1, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–29064 Filed 11–4–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–504]

Porcelain-on-Steel Cookware From Mexico: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the petitioner, Columbian Home Products, LLC (formerly General Housewares Corporation), the Department of Commerce is conducting an administrative review of the antidumping duty order on porcelain-on-steel cookware from Mexico. This review covers Cinsa, S.A. de C.V. and Esmaltaciones de Norte America, S.A. de C.V., manufacturers/exporters of the subject merchandise to the United States. The twelfth period of review is December 1, 1997, through November 30, 1998.

We preliminarily determine that sales have been made below normal value. Interested parties are invited to comment on these preliminary results. If

these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

EFFECTIVE DATE: November 5, 1999.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Rebecca Trainor, Office 2, AD/CVD Enforcement Group I, Import Administration-Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4929 or 482–4007, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (April 1998).

Background

On October 10, 1986, the Department published in the **Federal Register**, 51 FR 36435, the final affirmative antidumping duty determination on certain porcelain-on-steel (POS) cookware from Mexico. We published an antidumping duty order on December 2, 1986, 51 FR 43415.

On December 8, 1998, the Department published in the **Federal Register** a notice advising of the opportunity to request an administrative review of this order for the period December 1, 1997, through November 30, 1998 (the POR), 63 FR 67646. The Department received a request for an administrative review of Cinsa, S.A. de C.V. (Cinsa) and Esmaltaciones de Norte America, S.A. de C.V. (ENASA) from Columbian Home Products, LLC (CHP), formerly General Housewares Corporation (GHC) (hereinafter, the petitioner). We published a notice of initiation of the review on January 25, 1999, 64 FR 3682. The Department is conducting this review in accordance with section 751(a) of the Act.

Scope of the Review

The products covered by this review are porcelain-on-steel cookware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 7323.94.00. Kitchenware currently classifiable under HTSUS subheading 7323.94.00.30 is not subject to the order. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Allegation of Reimbursement

For the reasons discussed below, the Department has preliminarily determined that the producers/exporters, Cinsa and ENASA, will reimburse their affiliated importer Cinsa International Corporation (CIC) for antidumping duties assessed on entries of POS cookware from Mexico made during this review period. As a result of this determination, we deducted from the export price (EP) and constructed export price (CEP) the amount of the antidumping duty that we preliminarily found for Cinsa and ENASA for this review period in accordance with 19 CFR 351.402 (1998).

In the eleventh review of this order, we found that Cinsa and ENASA had reimbursed CIC for antidumping duties through a capital infusion provided to CIC, through a holding company, by their common parent company, Grupo Industrial Saltillo (''GIS''). We found that, in making this transfer of funds dedicated to the payment of antidumping duties, GIS acted on behalf of Cinsa and ENASA, such that the transfer may be attributed to those two firms. *See Porcelain-On-Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review*, 64 FR 26934, 26936–37 (May 18, 1999) (''*POS Cookware*'').

The Department has previously stated that ''where the Department determines in the final results of an administrative review that an exporter or producer has engaged in the practice of reimbursing the importer, the Department will presume that the company has continued to engage in such activity in subsequent reviews, absent a demonstration to the contrary.'' *See Certain Cold-Rolled Carbon Steel Flat Products From the Netherlands: Final Results of Antidumping Duty Administrative Review*, 63 FR 13204, 13213 (March 18, 1998) (''*Dutch Steel*''). ''The establishment of a rebuttable presumption allows the Department to administer the law fairly and effectively.'' *See Dutch Steel*, 63 FR at 13214. ''The Department's policy is crafted to address the instances in which there has been a finding of reimbursement and the importer is financially unable to pay the duty on its own. In that circumstance, the Department will determine that the importer must continue to rely on reimbursements, such as intracorporate transfers, from the producer or exporter in order to meet its obligations to pay the duties.'' *Id.*

We gave Cinsa and ENASA an opportunity to submit factual information to rebut the presumption of reimbursement with respect to current review entries. To rebut the presumption that reimbursement will continue to take place when current entries are liquidated, a respondent must normally demonstrate that, during the POR in question (in this case the 12th POR), antidumping duties were assessed against the affiliated importer and the affiliated importer did in fact pay all antidumping duties assessed during that POR, without reimbursement, directly or indirectly, by the exporter/producer. *See POS Cookware*, 64 FR at 26938. In such a case, the importer's financial ability to pay antidumping duties during the current POR is sufficient evidence of the importer's ability, without reimbursement, to pay the antidumping duties to be assessed on entries during the current review. *Id.* Alternatively, respondents may rebut the presumption by demonstrating that there are changed circumstances (*e.g.*, completed corporate restructuring) sufficient to obviate the need for reimbursement of antidumping duties to be assessed on the entries under review. *Id.; see also Dutch Steel*, 63 FR at 13213.

In order to establish that CIC is no longer being reimbursed for antidumping duties and that changed circumstances exist sufficient to obviate the need for reimbursement as to twelfth review entries when they are liquidated, respondents submitted the following:

1. The relevant pages of CIC's general ledger from year-end 1997 and 1998 showing that CIC's capital account did not change during 1998. Respondents also submitted the January 1999 general ledger page showing the return of the April 1997 capital contribution upon which the Department's finding of reimbursement was based in the prior review.

2. Recent audited financial data for 1998 showing CIC's earnings and profit margin for that year and interim financial data for the first half of 1999, as well as projected figures through 2002.

3. A statement that CIC has ceased being the importer of record for POS cookware imported from Mexico effective September 1, 1999. Respondents state that Cinsa is now the importer of record of the subject merchandise, with title passing to CIC

after the merchandise clears Customs. They claim that the result of this restructuring is to eliminate the cost to CIC of posting the estimated antidumping duty deposits, and thus to increase the profitability of CIC.

4. A statement that, in August 1, 1999, CIC will begin to market a new line of products in the U.S. and Canada that will further enhance CIC's profitability, and information in support of the level of income they expect to realize from this new line.

We find that the information that Cinsa and ENASA have submitted fails to satisfactorily demonstrate changed circumstances sufficient to obviate the need for reimbursement of CIC as to twelfth-review entries when they are liquidated. The primary basis of Cinsa and ENASA's argument that CIC is financially self-sufficient and will not need assistance to pay antidumping duties are sales projections which contrast markedly with CIC's actual performance in 1999 versus its performance in 1998. In addition, the limited actual financial data on the record is insufficient to enable us to determine that CIC's resources will be adequate to cover the liquidation of twelfth review entries. Because much of this information is business proprietary, it is discussed more fully in the November 1, 1999, Analysis Memorandum for the Preliminary Results (*Analysis Memo*). We will continue to evaluate whether CIC will have the financial capacity to independently meet its antidumping duty obligations and, in so doing, will solicit additional financial data from CIC when it becomes available for purposes of the final results. Furthermore, we will revisit our interpretation of the reimbursement regulation as it applies to this case.

Accordingly, based on our finding that the respondents have failed to satisfactorily rebut the presumption of reimbursement established in the eleventh review of this order, we preliminarily presume that antidumping duties to be assessed on twelfth-review entries will be reimbursed as well. Therefore, in accordance with our regulations, we deducted from EP and CEP the amount of the antidumping duty that we preliminarily found for Cinsa and ENASA for this review period.

Fair Value Comparisons

To determine whether sales of POS cookware by Cinsa and ENASA to the United States were made at less than normal value (NV), we compared EP or CEP to the NV, as described in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections of this notice.

Pursuant to section 777A(d)(2), we compared the EPs or CEPs of individual U.S. transactions to the weighted-average NV of the foreign like product where there were sales made in the ordinary course of trade at prices above the cost of production (COP), as discussed in the ''Cost of Production Analysis'' section, below.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Cinsa and ENASA covered by the description in the ''Scope of the Review'' section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market within the contemporaneous window period, which extends from three months prior to the U.S. sale until two months after the sale. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we compared individual cookware pieces with identical or similar pieces, and cookware sets to identical or similar sets. Within these groupings, we matched foreign like products based on the physical characteristics reported by the respondents in the following order: quality, gauge, cookware category, model, shape, wall shape, diameter, width, capacity, weight, interior coating, exterior coating, grade of frit (a material component of enamel), color, decoration, and cover, if any.

Export Price and Constructed Export Price

For certain sales made by Cinsa, we calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and because CEP methodology was not otherwise indicated. We based EP on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for billing adjustments, U.S. and foreign inland freight, U.S. and Mexican brokerage and handling expenses, and U.S. duty in accordance with section 772(c)(1) of the Act and 19 CFR 351.402(a). We reclassified pre-sale warehousing expenses, that were incorrectly reported by the respondents as movement expenses, as factory overhead expenses, based on information in the questionnaire response and in accordance with 19 CFR 351.401(e)(2). We also deducted the amount of antidumping duties reimbursed to CIC by Cinsa and ENASA, consistent with our reimbursement finding discussed above. (*See* Calculation Memorandum dated November 1, 1999) (*Calculation Memo*).

For the CEP sales made by Cinsa and ENASA during the POR, we calculated CEP in accordance with section 772(b) of the Act, because the subject merchandise was first sold by CIC in the United States. We reclassified as CEP certain sales sold by U.S. agents that Cinsa reported as EP sales, because the limited information on the record indicates that the merchandise was first sold (or agreed to be sold) by CIC after importation into the United States. *See* Calculation Memo for further details. We excluded ENASA's sample sales from the margin calculation, in accordance with *NSK, Ltd.* v. *United States*, 115 F.3d 965, 975 (Fed. Cir. 1997). We based CEP on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for billing adjustments, discounts, U.S. and foreign inland freight, U.S. and Mexican brokerage and handling expenses, and U.S. duty in accordance with section 772(c)(1) of the Act and 19 CFR 351.402(a). We reclassified pre-sale warehousing expenses, that were incorrectly reported by the respondents as movement expenses, as a factory overhead expenses, based on information in the questionnaire response and in accordance with 19 CFR 351.401(e)(2). We recalculated respondents' reported inventory carrying costs because respondents did not use the Department's standard methodology to report these expenses in their questionnaire response. *See* Calculation Memo.

We made further deductions, where appropriate, for credit, commissions, repacking expenses, warehousing expenses, and indirect selling expenses that were associated with economic activities occurring in the United States pursuant to section 772(d)(1) of the Act and 19 CFR 351.402(b). For those home market sales for which the payment date was not reported, we calculated credit based on the average number of days between shipment and payment using the sales for which payment information was reported. We recalculated CIC's indirect selling expenses to include bad debt and depreciation expenses. For purposes of calculating the indirect

selling expense ratio, we also reallocated certain of CIC's total expenses pertaining only to the CEP sales over the total sales value excluding the value of EP sales. *See* Calculation Memo. We performed this reallocation because CIC performs limited sales-related functions with respect to EP sales and equal allocation of all CIC expenses across all U.S. sales in which CIC is involved would disproportionately shift these costs from CEP to EP sales. Finally, we made an adjustment for profit in accordance with section 772(d)(3) of the Act. We also deducted the amount of antidumping duties to be reimbursed to CIC by Cinsa and ENASA, consistent with our reimbursement finding discussed above. *See* Calculation Memo.

Normal Value

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, we based NV on the price (exclusive of value-added tax) at which the foreign like product was first sold for consumption in the home market, in accordance with section 773(a)(1)(B)(i) of the Act, as noted below.

Level of Trade and CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from the exporter to an unaffiliated U.S. customer. For CEP, it is the level of the constructed sale from the exporter to an affiliated importer, after the deductions required under section 772(d) of the Act. To determine whether NV sales are at a LOT different from EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level, and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In this review, Cinsa and ENASA reported that comparison-market and CEP sales were made at different LOTs, and that comparison-market sales were made at a more advanced LOT than were Cinsa's sales to CIC in the United States. The respondents requested that the Department make a CEP offset in lieu of an LOT adjustment, as they were unable to quantify the price differences related to sales made at the different LOTs. Respondents made no claim for differences in LOT between comparison-market and EP sales.

Cinsa and ENASA reported four channels of distribution in the home market: (1) Direct sales to customers from the Saltillo plant, (2) sales shipped from their Mexico city warehouse, (3) sales shipped from their Guadalajara warehouse, and (4) sales shipped to discount stores. In analyzing the data in the home market sales listing by distribution channel and sales function, we found that the four home market channels did not differ significantly with respect to selling functions. Similar services were offered to all or some portion of customers in each channel. Based on this analysis, we find that the four home market channels of distribution comprise a single LOT.

Cinsa made both EP and CEP sales in the U.S. market during the POR, while ENASA made only CEP sales in the U.S. market. The EP sales were made by the exporter to the unaffiliated customer, who received the merchandise at the border between Mexico and the United States (FOB Laredo, Texas). As Cinsa did not provide the selling function information necessary to evaluate LOT(s) associated with EP sales in response to the Department's questionnaire, we have not performed a LOT analysis for purposes of making a LOT adjustment for any differences between comparison-market and EP sales.

All CEP sales were made through the same distribution channel: By the Mexican exporter to CIC, the U.S. affiliated reseller, who then sold the merchandise directly to unaffiliated purchasers in the United States. The same selling functions/services were provided by Cinsa and ENASA to all customers in this distribution channel. Therefore, we preliminarily determine that all CEP sales constitute a single LOT in the United States.

To determine whether sales in the comparison market were at a different LOT than CEP sales, we examined the selling functions performed at the CEP level, after making the appropriate deductions under section 772(d) of the Act, and compared those selling functions to the selling functions performed in the home market LOT.

In the comparison market, Cinsa and ENASA sold subject merchandise to their affiliated sales organization, COMESCO, which then resold the POS product to unaffiliated customers. In the United States, Cinsa sold its and ENASA's subject merchandise to its affiliate, CIC, which then sold the subject merchandise directly to unaffiliated purchasers. Therefore, we compared the selling functions and the level of activity associated with Cinsa's sales to CIC with the sales by COMESCO to unaffiliated purchasers in the Mexican market. We found that several of the functions performed in making the starting price sale in the comparison market either were not performed in connection with sales to CIC (*e.g.*, market research, order solicitation, after sale services/warranties, and advertising), or were only performed to a small degree in connection with sales to CIC (*e.g.* inventory maintenance), thus supporting respondents' contention that different LOTs exist between comparison-market and CEP sales.

These differences also support the respondents' assertion that the comparison-market merchandise is sold at a more advanced LOT (*see* the Preamble to the Department's Regulations, 62 FR 27295, 27371 (May 19, 1997)) (''Each more remote level must be characterized by an additional layer of selling activities, amounting in the aggregate to a substantially different selling function.'') Furthermore, many of the same selling functions that are performed at the comparison-market LOT are performed, not at the CEP LOT, but by the respondents' U.S. affiliate. Based on this analysis, we preliminarily conclude that the comparison-market and CEP channels of distribution are sufficiently different to determine that two different LOTs exist, and that the comparison-market sales are made at a more advanced LOT than are the CEP sales.

As there is no comparison-market LOT that is comparable to that in the

United States, we have no basis for determining whether the difference in LOTs affects price comparability. Therefore, we made a CEP offset to NV. In accordance with section 773(a)(7) of the Act, we calculated the CEP offset as the lesser of the following:

1. The indirect selling expenses on the comparison-market sale, or
2. The indirect selling expenses deducted from the starting price in calculating CEP.

Cost of Production Analysis

The Department disregarded certain sales made by Cinsa and ENASA for the period December 1, 1996, through November 30, 1997 (the most recently completed review of Cinsa and ENASA), pursuant to a finding in that review that sales were made below cost. Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that respondents Cinsa and ENASA made sales in the home market at prices below the cost of producing the merchandise in the current review period. As a result, the Department initiated investigations to determine whether the respondents made home market sales during the POR at prices below their COP within the meaning of section 773(b) of the Act.

A. Calculation of COP

We calculated the COP on a product-specific basis, based on the sum of Cinsa's and ENASA's cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A and packing costs in accordance with section 773(b)(3) of the Act. Because Cinsa and ENASA reported monthly costs, we created an annual average COP on a product-specific basis.

We relied on COP information submitted by Cinsa and ENASA, except in the following instances where it was not appropriately quantified or valued: (1) Frit prices from an affiliated supplier did not approximate fair market value prices; therefore, we increased Cinsa's and ENASA's frit prices to account for the portion of the reported cost savings to affiliated parties which was not due to market-based savings; (2) we recalculated Cinsa's depreciation expenses to account for idle assets; (3) we excluded Cinsa's and ENASA's negative interest expense; (4) for sales reported without COP data, we assigned the weighted-average COP reported for other sales in the database; and (5) we reclassified pre-sale warehousing expenses, that were incorrectly reported by the respondents as movement expenses, as factory overhead expenses.

B. Test of Home Market Prices

We compared the weighted-average, per-unit COP figures for the POR to home market sales of the foreign like product, as required by section 773(b) of the Act, in order to determine whether these sales were made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP (net of selling expenses) to the home market prices, less any applicable movement charges, rebates, discounts, and direct and indirect selling expenses.

C. Results of COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of the respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of the respondent's sales of a given product during the POR were at prices less than the COP, we disregarded the below-cost sales where such sales were found to be made at prices which would not permit the recovery of all costs within a reasonable period of time (in accordance with section 773(b)(2)(D) of the Act).

The results of our cost tests for Cinsa and ENASA indicated for certain home market models, less than twenty percent of the sales of the model were at prices below COP. We therefore retained all sales of these models in our analysis and used them as the basis for determining NV. Our cost tests also indicated that for certain other home market models more than twenty percent of home market sales within an extended period of time were at prices below COP and would not permit the full recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we therefore excluded the below-cost sales of these models from our analysis and used the remaining sales as the basis for determining NV.

Price-to-Price Comparisons

For both of the respondents, we calculated NV based on the VAT-exclusive, home market gross unit price and deducted, where appropriate, inland freight, and early payment discounts in accordance with section 773(a)(6) of the Act and 19 CFR 351.401. We reclassified pre-sale warehousing expenses, that were incorrectly reported by the respondents as movement expenses, as a factory overhead expenses, based on information in the questionnaire response and in accordance with 19 CFR 351.401(e)(2).

For comparisons to Cinsa's EP sales, we made a circumstance-of-sale adjustment, where appropriate, for differences in credit expenses pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c). For comparisons to Cinsa's and ENASA's CEP sales, we also deducted from NV credit expenses, commissions, and the lesser of comparison-market indirect selling expenses and the indirect selling expenses deducted from CEP (the CEP offset) pursuant to section 773(a)(7)(A) of the Act and 19 CFR 351.412(f). For those comparison-market sales for which the payment date was not reported, we calculated credit based on the average number of days between shipment and payment using the sales for which payment information was reported. We made adjustments to NV for differences in packing expenses. We also made adjustments to NV, where appropriate, for differences in costs attributable to differences in the physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

Currency Conversion

We made currency conversions in accordance with section 773A of the Act based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the weighted-average dumping margins for the period December 1, 1997, through November 30, 1998, are as follows:

Manufacturer/exporter	Period	Margin
Cinsa	12/1/97–11/30/98	16.89
ENASA	12/1/97–11/30/98	54.59

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication. *See* 19 CFR 351.310(c). If requested, a hearing will be held 44 days after the publication of this notice, or the first workday thereafter.

Issues raised in the hearing will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 30 days and 37 days, respectively, from the date of publication of these preliminary results. *See* 19 CFR 351.309(c) and (d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of these administrative reviews, including the results of its analysis of issues raised in any written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c).

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties. We will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis.* For assessment purposes, we intend to calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping margins calculated for all U.S. sales examined and dividing this amount by the total entered value of the sales examined. In calculating these importer-specific assessment rates, we will take into account the amount of the reimbursement calculated on sales during the POR. *See Calculation Memo* for details.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be those established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in these reviews, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 29.52 percent, the ''All Others'' rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice is published in accordance with sections 751(a)(1) of the Act and CFR 351.221.

Dated: November 1, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–29059 Filed 11–4–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–811]

Preliminary Determination of Critical Circumstances: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 5, 1999.

FOR FURTHER INFORMATION CONTACT: Doreen Chen at (202) 482–0408 or Rick Johnson at (202) 482–3818, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Preliminary Determination of Critical Circumstances

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (1999).

Critical Circumstances

On August 12, 1999, the Department of Commerce (''the Department'') initiated an investigation to determine whether imports of solid fertilizer grade ammonium nitrate from the Russian Federation (''Russia'') are being, or are likely to be, sold in the United States at less than fair value. In the petition filed on July 23, 1999, petitioner alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of solid fertilizer grade ammonium nitrate from Russia. On September 3, 1999, the International Trade Commission (''ITC'') determined that there was threat of material injury to the domestic industry from imports of solid fertilizer grade ammonium nitrate from Russia.

In accordance with 19 CFR 351.206(c)(2)(i), because petitioner submitted a critical circumstances

allegation more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary critical circumstances determination no later than the date of the preliminary determination. In a policy bulletin issued on October 8, 1998 (Policy Bulletin Number 98.4), the Department stated that it may issue a preliminary critical circumstances determination prior to the date of the preliminary LTFV determination, assuming adequate evidence of critical circumstances exists (*see Change in Policy Regarding Timing of Issuance of Critical Circumstances Determinations,* 63 FR 55364 (October 15, 1998)). In accordance with this policy, we are issuing a preliminary critical circumstances decision in the investigation of imports of solid fertilizer grade ammonium nitrate from Russia.

Section 733(e)(1) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

History of Dumping and Importer Knowledge

To determine whether there is a history of injurious dumping of the merchandise under investigation, in accordance with section 733(e)(1)(A)(i), the Department considers evidence of existing antidumping orders on solid fertilizer grade ammonium nitrate from Russia in the United States or elsewhere to be sufficient. To support a finding of history of injurious dumping of Russian ammonium nitrate, the petition states that the European Community (''EC'') issued an antidumping order in 1995 on imports of ammonium nitrate from Russia. This order remains in effect today. The existence of an antidumping order on Russian ammonium nitrate in the EC is sufficient evidence of a history of injurious dumping. Accordingly, there is no need to examine importer knowledge.

Massive Imports

In determining whether there are ''massive imports'' over a ''relatively short time period,'' the Department ordinarily bases its analysis on import data for at least the three months preceding (the ''base period'') and following (the ''comparison period'') the filing of the petition. Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period. However, as stated in the Department's regulations at section 351.206(i), if the Secretary finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, then the Secretary may consider a time period of not less than three months from that earlier time.

In this case, petitioner argues that importers, exporters, or producers of Russian solid fertilizer grade ammonium nitrate had reason to believe that an antidumping proceeding was likely before the filing of the petition. The Department examined whether conditions in the industry and published reports and statements provide a basis for inferring knowledge that an antidumping investigation on the subject merchandise was likely. The Department found that, as a result of an investigation on Russian ammonium nitrate imports by the International Trade Commission under section 332(g) of the Tariff Act of 1930, as amended (published on May 6, 1998), there was considerable press coverage discussing concerns of ammonium nitrate producers, among others, concerning the influx of imports of subject merchandise and the likelihood of a remedial trade action, including the filing of an antidumping petition. On December 3, 1998, a coalition of U.S. producers of solid fertilizer grade ammonium nitrate formed the Committee for Fair Ammonium Nitrate Trade (''COFANT''), to monitor developments with respect to the importation of ammonium nitrate and to pursue available remedies, should unfair trade practices be identified. On December 7, 1998, the formation of this coalition was reported in a trade publication. Significantly, this trade publication also reported in the same article that ''some of the committee members already have been active in trying to get federal officials to find evidence of Russian AN dumping.'' *See Petition for the Imposition of Antidumping Duties: Solid Agricultural Grade Ammonium Nitrate from the Russian Federation* (July 23, 1999) at Exhibit 37, p. 5.

The press coverage leading up to the formation of COFANT and the announcement thereof in early December 1998, including the explicit reference to a dumping action against imports of ammonium nitrate from Russia, are sufficient evidence that the Russian producers and importers were on notice that an antidumping proceeding concerning the subject merchandise was likely. Thus, we preliminarily determine that by early December 1998, importers, exporters, or producers knew or should have known that a proceeding was likely concerning solid fertilizer grade ammonium nitrate from Russia (*see* discussion in the *Determination of Critical Circumstances Memorandum,* November 1, 1999).

Therefore, we examined the increase in import volumes during the period of December 1998 through May 1999 as compared to June 1998 through November 1998. The Department found that imports of subject merchandise escalated by over 257.88 percent (*see* Attachment 1 to the *Determination of Critical Circumstances Memorandum*). Furthermore, while the record indicated that seasonality might account for some of that increase, we preliminary determine that the 257.88 percent increase is not simply a function of seasonality, as the actual volume increase from the period December to May compared to the same period in the previous two years indicates an actual volume increase of 88.31 percent (*see* Attachment 2 to the *Determination of Critical Circumstances Memorandum*). Therefore, pursuant to section 733(e) of the Act and section 351.206(h) of the Department's regulations, we preliminarily determine that there have been massive imports of solid fertilizer grade ammonium nitrate from Russia over a relatively short time.

Conclusion

We preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist for imports of solid fertilizer grade ammonium nitrate from Russia.

Suspension of Liquidation

In accordance with section 733(e)(2) of the Act, upon issuance of an affirmative preliminary determination of sales at less than fair value in the investigation, the Department will direct the U.S. Customs Service to suspend liquidation of all entries of solid fertilizer grade ammonium nitrate from Russia, as appropriate, that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the **Federal Register** of our preliminary determination of sales at less than fair value. The Customs Service shall

require a cash deposit or posting of a bond equal to the estimated preliminary dumping margin reflected in the preliminary determination of sales at less than fair value published in the **Federal Register**. This suspension of liquidation will remain in effect until further notice.

Final Critical Circumstances Determination

We will make a final determination concerning critical circumstances for Russia when we make our final determination regarding sales at less than fair value in this investigation, which will be 75 days after the preliminary determination regarding sales at less than fair value, unless this investigation is extended.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. This notice is published pursuant to section 777(i) of the Act.

Dated: November 1, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–29062 Filed 11–4–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–428–812]

Hot-Rolled Lead and Bismuth Carbon Steel Products From Germany: Extension of Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of countervailing duty administrative review.

EFFECTIVE DATE: November 5, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Copyak at 202–482–2209, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW, Washington, DC 20230.

Time Limits

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Background

On April 30, 1999, the Department published a notice of initiation of administrative review of the countervailing duty order on hot-rolled lead and bismuth carbon steel products from Germany, covering the period January 1, 1998, through December 31, 1998, (64 FR 23269, 23280). The preliminary results are currently due no later than December 1, 1999.

Extension of Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit. Therefore the Department is extending the time limits for completion of the preliminary results until no later than March 30, 2000. *See* Decision Memorandum from Holly A. Kuga to Robert S. LaRussa, dated October 27, 1999, which is on file in the Central Records Unit. We intend to issue the final results no later than 120 days after the publication of the preliminary results notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: October 28, 1999.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration, Group II.

[FR Doc. 99–29061 Filed 11–4–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 98109262–919–02]

RIN 0693–ZA 27

Announcing Approval of Federal Information Processing Standard (FIPS) 46–3, Data Encryption Standard

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The Secretary of Commerce has approved Federal Information Processing Standard (FIPS) 46–3, Data Encryption Standard, which supersedes FIPS 46–2. FIPS 46–3 provides for the use of the Triple DES as specified in American National Standard (ANSI) X9.52. NIST expects that Triple DES will provide Federal agencies with strong protective measures against associated risks until the Advanced Encryption Standard (AES) is available, probably in 2001.

EFFECTIVE DATE: This standard is effective March 25, 2000.

ADDRESSES: FIPS 46–3 is available on the NIST web page at: <http//csrc.nist.gov/publications/drafts.html>.

Copies of the ANSI X9.52 (Triple DES) standard are available from American Bankers Assoc./DC,X9 Customer Service Dept., P.O. Box 79064, Baltimore, MD 21279–0064, telephone 1–800–338–0626.

Information on the Advanced Encryption Standard under development is available at: <http://www.nist.gov/aes>.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Barker, (301) 975–2911, National Institute of Standards and Technology, 100 Bureau Drive, STOP 8930, Gaithersburg, MD 20899–8930.

SUPPLEMENTARY INFORMATION: Federal Information Processing Standard 46, Data Encryption Standard (DES), first issued in 1977, specified the Data Encryption algorithm, to be implemented in hardware devices, for the cryptographic protection of computer data. The standard provided that it be reviewed within five (5) years to assess its adequacy. In 1981, the DES was adopted as an American National Standard and became widely used by the financial community. The first review of the DES was completed in 1983, and the DES was reaffirmed for Federal government use (48 FR 41062). The second review, completed in 1987, again resulted in the reaffirmation of the standard for Federal government use (52 FR 7006). The standard was re-issued as FIPS 46–1 with minor editorial updating. The third review was completed in 1993, and the standard was reaffirmed as FIPS 46–2 for Federal government use (58 FR 69347). FIPS 46–2 provided for software implementations, as well as hardware implementations, of the DES.

When the DES was reaffirmed in 1993, NIST stated that it would ''consider alternatives which offer a higher level of security'' at the next review in 1998. There was concern that the DES 56–bit key was not long enough to prevent an attack by trying all of the possible keys. NIST believed that the key was sufficiently long for the

expected life of the standard and that the security could be increased, when needed, by using the DES for three sequential encryption operations with different keys. This approach is called Triple DES. In 1997, NIST advised Federal organizations that they could use Triple DES if they needed security beyond that provided by the DES.

Since 1998, there have been reports that the DES could be attacked through an exhaustion attack whereby possible keys are tested one at a time until the correct key is found. Because of this, NIST proposed to replace FIPS 46–2 with FIPS 46–3 to specify use of Triple DES. Triple DES was documented and specified as an American National Standard (ANSI X9.52) by Accredited Standards Committee X9 for Financial Services, which develops cryptography and public key infrastructure standards. Triple DES was developed by the private sector with NIST assistance and is used by many government and private sector organizations, particularly in the financial services industry.

Public comments were solicited on the draft of FIPS 46–3 in the **Federal Register** (January 15, 1999, Volume 64, Number 10, pp. 2625–2628). The draft standard was also made available on NIST's web page. NIST received comments from three industry organizations and individuals and one Canadian government organization. The comments supported revision of the standard; minor technical and editorial changes were recommended and have been incorporated into FIPS 46–3.

Related to FIPS 46–3 is NIST's project to develop an Advanced Encryption Standard (AES), anticipated for completion in 2001. It is anticipated that Triple DES and the Advanced Encryption Standard (AES) will coexist as FIPS approved algorithms allowing for a gradual transition to AES. (The AES is a new symmetric-based encryption standard under development by NIST. AES is intended to provide strong cryptographic security for the protection of sensitive information well into the 21st century.) NIST is working with industry and the cryptographic community to develop the AES, which will offer improved security and efficiency over Triple DES, and provide needed cryptographic protection will into the next century. Information on the AES is available at <http://www.nist.gov/aes>.

Authority: This work effort is being conducted pursuant to NIST's responsibilities for the development of security standards and guidelines for the protection of sensitive federal information technology systems under the Computer Security Act of 1987, the Information Technology Management Reform Act of 1996, Executive Order 13011, and Appendix III to Office of Management and Budget (OMB) Circular A–130.

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to Section 5131 of the Information Technology Management Reform Act of 1996 (Public Law 104–106), and Computer Security Act of 1987 (Public Law 100–235).

1. *Name of Standard.* Data Encryption Standard (DES).

2. *Catgegory of Standard.* Computer Security, Cryptography.

3. *Explanation.* The Data Encryption Standard (DES) specifies two FIPS approved cryptographic algorithms as required by FIPS 140–1. When used in conjunction with the American National Standards Institute (ANSI) X9.52 standard, this publication provides a complete description of the mathematical algorithms for encrypting (enciphering) and decrypting (deciphering) binary coded information. Encrypting data converts it to an unintelligible form called cipher. Decrypting cipher converts the data back to its original form called plaintext. The algorithms described in this standard specify both enciphering and deciphering operations that are based on a binary number called a key.

A DES key consists of 64 binary digits (''0''s or ''1''s) of which 56 bits are randomly generated and used directly by the algorithm. The other 8 bits, which are not used by the algorithm, may be used for error detection. The 8 error detecting bits are set to make the parity of each 8-bit byte of the key odd, *i.e., t*here is an odd number of ''1''s in each 8-bit byte.[1] A TDEA key consists of three DES keys, which is also referred to as a key bundle. Authorized users of encrypted computer data must have the key that was used to encipher the data in order to decrypt it. The encryption algorithms specified in this standard are commonly known among those using the standard. The cryptographic security of the data depends on the security provided for the key used to encipher and decipher the data.

Data can be recovered from cipher only by using exactly the same key used to encipher it. Unauthorized recipients of the cipher who know the algorithm but do not have the correct key cannot derive the original data algorithmically. However, it may be feasible to determine the key by a brute force ''exhaustion attack.'' Also, anyone who does have the key and the algorithm can easily decipher the cipher and obtain the original data. A standard algorithm based on a secure key thus provides a basis for exchanging encrypted computer data by issuing the key used to encipher it to those authorized to have the data.

Data that is considered sensitive by the responsible authority, data that has a high value, or data that represents a high value should be cryptographically protected if it is vulnerable to unauthorized disclosure or undetected modification during transmission or while in storage. A risk analysis should be performed under the direction of a responsible authority to determine potential threats. The costs of providing cryptographic protection using this standard as well as alternative methods of providing this protection and their respective costs should be projected. A responsible authority then should make a decision, based on these analyses, whether or not to use cryptographic protection and this standard.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* U.S. Department of Commerce, National Institute of Standards and Technology, Information Technology Laboratory.

6. *Applicability.* This standard may be used by Federal departments and agencies when the following conditions apply:

1. An authorized official or manager responsible for data security or the security of any computer system decides that cryptographic protection is required; and

2. The data is not classified according to the National Security Act of 1947, as amended, or the Atomic Energy Act of 1954, as amended.

Federal agencies or departments, which use cryptographic devices for protecting data classified according to either of these acts, can use those devices for protecting sensitive data in lieu of the standard.

Other FIPS approved crytographic algorithms may be used in addition to or in lieu of this standard when implemented in accordance with FIPS 140–1.

In addition, this standard may be adopted and used by non-Federal Government organizations. Such use in encouraged when it provides the desired security for commercial and private organizations.

[1] Sometimes keys are generated in an encrypted form. A random 64-bit number is generated and defined to be the cipher formed by the encryption of a key using a key encrypting key. In this case the parity bits of the encrypted key cannot be set until after the key is decrypted.

7. *Applications.* Data encryption (cryptography) is utilized in various applications and environments. The specific utilization of encryption and the implementation of the DES and TDEA [2] will be based on many factors particular to the computer system and its associated components. In general, crytography is used to protect data while it is being communicated between two points or while it is stored in a medium vulnerable to physical theft. Communication security provides protection to data by enciphering it at the transmitting point and deciphering it at the receiving point. File security provides protection to data by enciphering it when it is recorded on a storage medium and deciphering it when it is read back from the storage medium. In the first case, the key must be available at the transmitter and receiver simultaneously during communication. In the second case, the key must be maintained and accessible for the duration of the storage period. FIPS 171 provides approved methods for managing the keys used by the algorithms specified in this standard. Public-key based protocols may also be used (*e.g.*, ANSI X9.42).

8. *Implementations.* Crytographic modules that implement this standard shall conform to the requirements of FIPS 140–1. The algorithms specified in this standard may be implemented in software, firmware, hardware, or any combination thereof. The specific implementation may depend on several factors such at the application, the environment, the technology used, *etc.* Implementations which may comply with this standard include electronic devices (*e.g.*, VLSI chip packages), micro-processors using Read Only Memory (ROM), Programmable Read Only Memory (PROM), or Electronically Erasable Read Only Memory (EEROM), and mainframe computers using Random Access Memory (RAM). When an algorithm is implemented in software or firmware, the processor on which the algorithm runs must be specified as part of the validation process. Implementations of an algorithm that are tested and validated by NIST will be considered as complying with the standard. Note that FIPS 140–1 places additional requirements on crytographic modules for Government use. Information about devices that have been validated and procedures for testing and validating equipment for conformance with this standard and FIPS 140–1 are available from the National Institute of Standards and Technology, Information Technology Laboratory, 100 Bureau Dr. Stop 8930, Gaithersburg, MD 20899–8930.

9. *Export Control.* Cryptographic devices and technical data regarding them are subject to Federal Government export controls and exports of cryptographic modules implementing this standard and technical data regarding them must comply with these Federal regulations and be licensed by the Bureau of Export Administration of the U.S. Department of Commerce.

10. *Patents.* Cryptographic devices implementing this standard may be covered by U.S. and foreign patents, including patents issued to the International Business Machines Corporation. However, IBM has granted nonexclusive, royalty-free licenses under the patents to make, use and sell apparatus that complies with the standard. The terms, conditions and scope of the licenses are set out in notices published in the May 13, 1975, and August 31, 1976, issues of the Official Gazette of the United States Patent and Trademark Office (934 O.G. 452 and 949 O.G. 1717).

11. *Alternative Modes of Using the DES and TDEA.* FIPS PUB 81, DES Modes of Operation, describes four different modes for using DES described in this standard. These four modes are called the Electronic Codebook (ECB) mode, the Cipher Block Chaining (CBC) mode, the Cipher Feedback (CFB) mode, and the Output Feedback (OFB) mode. ECB is a direct application of the DES algorithm to encrypt and decrypt data; CBC is an enhanced mode of ECB which chains together blocks of cipher text; CFB uses previously generated cipher text as input to the DES to generate pseudorandom outputs which are combined with the plain text to produce cipher, thereby chaining together the resulting cipher; OFB is identical to CFB except that the previous output of the DES is used as input in OFB while the previous cipher is used as imput in CFB. OFB does not chain the cipher.

The ANSI X9.52 standard, ''Triple Data Encryption Algorithm Modes of Operation'' describes seven different modes for using TDEA described in this standard. These seven modes are called the TDEA Electronic Codebook Mode of Operation (TECB) mode, the TDEA Cipher Block Chaining Mode of Operation (TCBC), the TDEA Cipher Block Chaining Mode of Operation—Interleaved (TCBC–I), the TDEA Cipher Feedback Mode of Operation (TCFB), the TDEA Cipher Feedback Mode of Operation—Pipelined (TCFB–P), the TDEA Output Feedback Mode of Operation (TOFB), and the TDEA Output Feedback Mode of Operation—Interleaved (TOFB–I). The TECB, TCBC, TCFB and TOBF modes are based upon the ECB, CBC, CFB and OFB modes, respectively, obtained by substituting the DES encryption/decryption operation with the TDEA encryption/decryption operation.

12. *Implementation of this standard.* FIPS 46–3 supersedes FIPS 46–2 on March 25, 2000. It applies to all Federal agencies, contractors of Federal agencies, or other organizations that process information (using a computer or telecommunications system) on behalf of the Federal Government to accomplish a Federal function. Each Federal agency or department may issues internal directives for the use of this standard by their operating units based on their data security requirement determinations.

a. Triple DES (*i.e.*, TDEA), as specified in ANSI X9.52, is recognized as a FIPS approved algorithm.

b. Triple DES is the FIPS approved symmetric encryption algorithm of choice.

c. Single DES (*i.e.*, DES) is permitted for legacy systems only. New procurements to support legacy systems should, where feasible, use Triple DES products running in the single DES configuration.

d. Government organizations with legacy DES systems are encouraged to transition to Triple DES based on a prudent strategy that matches the strength of the protective measures against the associated risk.

Note: It is anticipated that triple DES and the Advanced Encryption Standard (AES) will coexist as FIPS approved algorithms allowing for a gradual transition to AES. (The AES is a new symmetric-based encryption standard under development by NIST. AES is intended to provide strong cryptographic security for the protection of sensitive information well into the 21st century.)

NIST provides technical assistance to Federal agencies in implementing data encryption through the issuance of standards, guidelines and through individual reimbursable projects.

13. *Specifications.* Federal Information Processing Standard (FIPS) 46–3, Data Encryption Standard (DES) (affixed).

14. *Cross Index.*

a. FIPS PUB 31, Guidelines to ADP Physical Security and Risk Management.

b. FIPS PUB 39, Glossary for Computer Systems Security.

c. FIPS PUB 73, Guidelines for Security of Computer Applications.

d. FIPS PUB 74, Guidelines for Implementing and Using the NBS Data Encryption Standard.

e. FIPS PUB 81, DES Modes of Operation.

[2] DES forms the basis for TDEA.

f. FIPS PUB 87, Guidelines for ADP Contingency Planning.

g. FIPS PUB 112, Password Usage.

h. FIPS PUB 113, Computer Data Authentication.

i. FIPS PUB 140–1, Security Requirements for Cryptographic Modules.

j. FIPS PUB 171, Key Management Using ANSI X9.17.

k. ANSI X9.42, Agreement of Symmetric Keys on Using Discrete Logarithm Cryptography.©

l. ANSI X9.52, Triple Data Encryption Algorithm Modes of Operation.

15. *Qualifications.* Both this standard and possible threats reducing the security provided through the use of this standard will undergo review by NIST as appropriate, taking into account newly available technology. In addition, the awareness of any breakthrough in technology or any mathematical weakness of the algorithm will cause NIST to reevaluate this standard and provide necessary revisions.

With regard to the use of single DES, exhaustion of the DES (*i.e.,* breaking a DES encrypted ciphertext by trying all possible keys) has become increasingly more feasible with technology advances. Following a recent hardware based DES key exhaustion attack, NIST can no longer support the use of single DES for many applications.

16. *Comments.* Comments and suggestions regarding this standard and its use are welcomed and should be addressed to the National Institute of Standards and Technology, Attn: Director, Information Technology Laboratory, 100 Bureau Dr., Stop 8900, Gaithersburg, MD 20899–8900.

17. *Waiver Procedure.* Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of Title 44, United States Code. Waiver shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system; or

b. Compliance with a standard would cause a major adverse financial impact on the operator that is not offset by Government-wide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision that explains the basis on which the agency head made the required finding(s). A copy of each decision, with procurement sensitive or classified portions clearly identified, shall be sent to National Institute of Standards and Technology; ATTN: FIPS Waiver Decisions, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899–8930.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Government Affairs of the Senate and shall be published promptly in the **Federal Register**.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any accompanying documents, with such deletions as the agency is authorized and decides to make under 5 United States Code Section 552(b), shall be part of the procurement documentation and retained by the agency.

18. *Special Information.* In accordance with the Qualifications Section of this standard, reviews of this standard have been conducted every 5 years since its adoption in 1977. The standard was reaffirmed during each of those reviews. This revision to the text of the standard contains changes which allow software implementations of the algorithm, permit the use of other FIPS approved cryptographic algorithms, and designate Triple DES (i.e., TDEA) as a FIPS approved cryptographic algorithm.

19. *Where to Obtain Copies of the Standard.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication 46–3 (FIPSPUB46–3), and identify the title. When microfiche is desired, this should be specified. Prices are published by NTIS in current catalogs and other issuances. Payment may be made by check, money order, deposit account or charged to a credit card accepted by NTIS.

Dated: October 29, 1999.

Karen H. Brown,

Deputy Director, NIST

[FR Doc. 99–28947 Filed 11–4–99; 8:45 am]

BILLING CODE 3510–CN–M

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 991101293–9293–01]

Public Meeting, Digital Divide Summit

AGENCY: National Telecommunications and Information Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Secretary of Commerce, William M. Daley, will host a Digital Divide Summit, focused on expanding access to new technologies for underserved populations and areas. Secretary Daley will lead the dialogue among participants from the U.S. Government, technology industry, civil rights and non-profit communities, grass-roots community organizations, and the general public.

DATES: The Digital Divide Summit will be held on December 9, 1999 from 8:00 a.m. to 1:00 p.m.

ADDRESSES: The Digital Divide Summit will be held at the U.S. Department of Commerce, Main Auditorium, 1401 Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Jeffrey Joyner, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Room 4713, Washington, D.C. 20230; telephone (202) 482–1816; facsimile (202) 501–8013; or electronic mail <digitaldivide@ntia.doc.gov>.

MEDIA INQUIRIES: Please contact the Office of Public Affairs, U.S. Department of Commerce, at (202) 482–7002.

SUPPLEMENTARY INFORMATION: Information tools, such as the personal computer and the Internet, are increasingly critical to economic success and personal advancement. On July 8, 1999, the National Telecommunications and Information Administration (NTIA) issued a report, Falling Through the Net: Defining the Digital Divide, that found a growing gap between those with access to these tools and those without. As information technology plays an ever-increasing role in Americans' economic and social lives, the prospect that some will be left behind in the information age can have

serious repercussions. The digital divide threatens to impede the health of our communities, development of a skilled workforce, and the economic welfare of our nation.

On December 9, 1999, the Secretary of Commerce, William M. Daley, will host a Digital Divide Summit, focused on expanding access to information technologies for underserved populations and areas. Secretary Daley will lead the dialogue among participants from the U.S. Government, technology industry, civil rights and non-profit communities, grass-roots community organizations, and the general public. The participants will examine existing public and private initiatives aimed at closing the technology gap and will discuss how to expand upon and coordinate these efforts. Closing the digital divide is an essential part of President Clinton's New Markets Initiative, which seeks to bring America's prosperity to economically underserved areas.

The Digital Summit will be held at the Department of Commerce and will include an address by Secretary Daley; a roundtable discussion with representatives from the public and private sectors; and six breakout sessions. The topics of these smaller sessions include Technology and Economic Development in Underserved Areas; Sustainable Public Access Points; Lowering Barriers to Access through New Product Development; Marketing to and Content for Underserved Populations; Rural Communities—Targeted Solutions; and Workforce Development—Training and Education.

Agenda:

7:30–8:30 a.m. Registration, Lobby
8:30–9:50 a.m. Breakout Sessions, Various Rooms
9:50–10:00 a.m. Break
10:15–10:30 a.m. Secretary Daley, Remarks, Main Auditorium
10:30–12:30 a.m. Roundtable, Audience Questions, Main Auditorium
12:30–12:40 p.m. Secretary Daley, Closing, Main Auditorium

The agenda is subject to change. For current agenda information, please see the National Telecommunications and Information Administration's website at http://www.ntia.doc.gov/ntiahome/digitaldivide/summit/.

Public Participation: The Digital Divide Summit is open to the public and physically accessible to people with disabilities. To enter the Commerce Department building, you must have photo identification available and/or a U.S. Government building pass if applicable. To facilitate entry, you should also bring your registration form with you, if available. Any member of the public wishing to attend and requiring special services, such as sign language interpretation or other ancillary aids, should contact Sarah Maloney, NTIA, U.S. Department of Commerce, at least five (5) working days prior to the Summit, at either telephone number (202) 482–1835 or electronic mail at <smaloney@ntia.doc.gov>.

Registration: Information about paper and electronic registration for the Digital Divide Summit will be available on the National Telecommunications and Information Administration website at http://www.ntia.doc.gov/ntiahome/digitaldivide/summit/. Or contact Jeffrey Joyner, NTIA, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Room 4713, Washington, D.C. 20230; telephone (202) 482–1816; facsimile (202) 501–8013; or electronic mail <digitaldivide@ntia.doc.gov>. Please indicate on the registration form which breakout session you wish to attend. In addition, space is provided at the end of the registration material if you would like to share a description of activities you are undertaking on ideas you have to address the digital divide. You can also raise questions or concerns that relate to the topic. We will collect and distribute these ideas and questions to Summit participants.

National Telecommunications and Information Administration.

Kathy D. Smith,

Acting Chief Counsel,

[FR Doc. 99–29028 Filed 11–4–99; 8:45 am]

BILLING CODE 3510–60–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Cambodian Labor Law and Standards Pursuant to the U.S.-Cambodia Bilateral Textile Agreement

November 3, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice concerning Cambodian labor law and standards.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on categories for which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

A notice and letter to the Commissioner of Customs published in the **Federal Register** on February 8, 1999 (see 64 FR 6050) outlined the bilateral textile agreement of January 20, 1999 in which the Governments of the United States and Cambodia agreed to limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in Cambodia and exported to the United States during three one-year periods beginning on January 1, 1999 and extending through December 31, 2001.

Pursuant to the bilateral textile agreement, the United States must make a determination by December 1, 1999 as to whether working conditions in the Cambodian textile and apparel sector substantially comply with Cambodian labor law and internationally recognized core labor standards. If the United States makes a positive determination, textile and apparel specific limits will be increased for the subsequent agreement year.

Anyone wishing to comment or provide data or information regarding this matter is invited to submit 10 copies of such comments or information to Troy H. Cribb, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Becky Geiger. The deadline for receipt of comments is November 19, 1999.

Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

The solicitation of comments is not a waiver in any respect of the exemption to the rulemaking provisions contained in 5 U.S.C.553(a)(1) relating to matters which constitute ''a foreign affairs function of the United States.''

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–29161 Filed 11–3–99; 2:23 pm]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability for the Final Environmental Impact Statement (FEIS) for the Disposal and Reuse of Fort Chaffee, Arkansas

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969 and the President's Council on Environmental Quality, the Army has prepared an FEIS for the Disposal and Reuse of Fort Chaffee, Arkansas. The approved 1995 base closure and realignment actions required by the Base Closure and Realignment Act of 1990 (Pub. L. 101–510), and subsequent actions in compliance with this law, mandated the closure of Fort Chaffee. It is Department of Defense (DoD) policy to dispose of property no longer needed by DoD. Consequently, as a result of the mandated closure of Fort Chaffee, the Army is disposing of excess property at Fort Chaffee.

DATES: The review period will end December 6, 1999.

ADDRESSES: Questions and/or written comments regarding the FEIS, or a request for a copy of the document may be directed to Mr. Jim Ellis, Little Rock District, U.S. Army Corps of Engineers (ATTN: CESWL–ET–WD), P.O. Box 867, Little Rock, Arkansas 72203.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Ellis at (501) 324–5033 or by telefax at (501) 324–5605.

SUPPLEMENTARY INFORMATION: The FEIS analyzes three disposal alternatives: (1) The no action alternative, which entails maintaining the property in caretaker status after closure; (2) the encumbered disposal alternative, which entails transferring the property to future owners with Army-imposed limitations, or encumbrances, on the future use of the property; and (3) the unencumbered disposal alternative, which entails transferring the property to future owners with fewer or no Army-imposed restrictions on the future use of the property. The preferred action identified in this FEIS is encumbered disposal of excess property at Fort Chaffee. Based upon the analysis contained in the FEIS, encumbrances and deed restrictions associated with the Army's disposal actions for Fort Chaffee will be mitigation measures.

Planning for the reuse of the property to be disposed of is a secondary action resulting from closure. The local community has established the Fort Chaffee Redevelopment Authority (FCRA) to produce a reuse development plan for the surplus property. The impacts of reuse are evaluated in terms of land use intensities. This reuse analysis is based upon implementing one of three reuse alternatives, all of which are based upon the FCRA reuse plan. The Army has not selected one of these three reuse alternatives as the preferred action. Selection of the preferred reuse plan will be made by the Fort Chaffee Public Trust, a follow-on organization to the FCRA.

Copies of the FEIS have been forwarded to the Environmental Protection Agency (EPA), other Federal, state and local agencies; public officials; and organizations and individuals who previously provided substantive comments to the DEIS. Copies of the FEIS are available for review at the following libraries: Arkansas River Valley Regional Library, 501 N Front Street, Dardanelle, Arkansas 72834; Charleston Public Library, 510 Main Street, Charleston, Arkansas 72933; Clarksville Public Library, 2 Taylor Circle, Clarksville, Arkansas 72830; Franklin County Library, 407 W. Market, Ozark, Arkansas 72949; Fort Smith Public Library, 61 S 8th Street, Fort Smith, Arkansas 72901; Gattis—Logan County Library, 100 E. Academy, Paris, Arkansas 72855; Logan County Library, 419 N. Kennedy Street, Booneville, Arkansas 72927, Sebastion County Library, 18 North Adair, Greenwood, Arkansas 72936; Van Buren Public Library, 111 N. 12th Street, Van Buren, Arkansas 72956; Yell County Library, 902 Atlanta Street, Danville, Arkansas 72833; and Little Rock District, Army Corps of Engineers, 700 West Capitol, Little Rock, Arkansas 72201. Comments on the FEIS will be used in preparing the record of Decision for the Army action.

Dated: November 1, 1999.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I&E).

[FR Doc. 99–28992 Filed 11–4–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Supplemental Environmental Assessment (EA) and Finding of No Significant Impact (FNSI) for the Disposal of Utility Systems at Sierra Army Depot (SIAD), California

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the availability of the Supplemental EA and FNSI for the proposed action evaluated by this Supplemental EA to dispose of Sierra Army Depot (SIAD) utility systems and the child development center (CDC) (property made available by the realignment of SIAD) in accordance with the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. The EA supplements the February 1998 EA for the Disposal and Reuse of the BRAC parcels at SIAD.

DATES: Submit comments on or before November 22, 1999.

ADDRESSES: A copy of the EA or inquiries into the FNSI may be obtained by writing to Mr. Glen Coffee, U.S. Army Corps of Engineers, Mobile District, ATTN: CESAM–PD–E, 109 St. Joseph Street, Mobile, Alabama 36602.

FOR FURTHER INFORMATION CONTACT: Mr. Glen Coffee by facsimile at (334) 690–2721.

SUPPLEMENTARY INFORMATION: The proposed action is to dispose of SIAD's utility systems and the CDC (building P–172) by conveyance to the Lassen County Local Reuse Authority (LRA). The Army proposes to dispose of SIAD's utility systems for electrical power distribution, potable water production, treatment, and wastewater collection. The CDC lies within the Herlong Parcel. The Herlong Parcel was addressed in the February 1998 EA as excess property to be conveyed to the Lassen County LRA. The LRA may dispose of the utility systems to the Herlong Utilities Cooperative for operation and maintenance and transfer the CDC to the Susanville Indian Rancheria.

Alternatives examined in the Supplemental EA include conveyance, long-term lease, and no action. Under the conveyance alternative (preferred alternative) the Army would transfer its utility systems to the Lessen County LRA. The Army would retain ownership and responsibility only for those utility components located within retained buildings and facilities, Under the long-term lease alternative, the Army would retain ownership of the utility systems, but would transfer operation and maintenance responsibilities to a private entity. The no action alternative would consist of the Army's retention of all of its excess property.

Based on the analysis of the EA, it has been determined that implementation of the proposed action will have no significant direct, indirect, or cumulative impacts on the quality of the

natural or human environment. Because no significant environmental impacts will result from implementation of the proposed action, an Environmental Impact Statement is not required and will not be prepared.

The Army will not initiate the proposed action for 15 days following the completion of the EA and FNSI and publication of a public notice in a local newspaper. This EA is available for review at the following repositories: Lassen Community College Library, Highway 139, P.O. Box 3000, Susanville, CA 96130; Lassen County Public Works, 707 Nevada Street, Suite 2, Susanville, CA 96130; and the Washoe County Library, Downtown Branch, 301 South Center Street, Reno NV 89501.

Dated: November 1, 1999.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA(I&E).

[FR Doc. 99–28993 Filed 11–4–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

National Commission on Mathematics and Science Teaching for the 21st Century; Meeting

AGENCY: National Commission on Mathematics and Science Teaching for the 21st Century, Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Commission on Mathematics and Science Teaching for the 21st Century (Commission). This notice also describes the functions of the Commission. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the general public of their opportunity to attend.

DATE AND TIME: Monday, November 29, 1999, from 3:30 to approximately 6:30 p.m. and Tuesday, November 30 from 8:30 a.m. to adjournment at approximately 4:30 p.m.

ADDRESS: The Washington Hilton and Towers, International Ballroom West, 1919 Connecticut Avenue, NW, Washington, DC 20009, telephone: (202) 483–3000, fax: (202) 232–0438.

FOR FURTHER INFORMATION CONTACT: Dr. Linda P. Rosen, Executive Director, The National Commission on Mathematics and Science Teaching for the 21st Century, US Department of Education, Room 6W252, 400 Maryland Avenue, SW, Washington, DC 20202, telephone: (202) 260–8229, fax: (202) 260–7216.

SUPPLEMENTARY INFORMATION: The National Commission on Mathematics and Science Teaching for the 21st Century was established by the Secretary of Education and is governed by the provisions of the Federal Advisory Committee Act (FACA) (P.L. 92–463, as amended; 5 U.S.C.A. Appendix 2). The Commission was established to address the pressing need to significantly raise student achievement in mathematics and science by focusing on the quality of mathematics and science instruction in K–12 classrooms nationwide. The Commission will develop a set of recommendations with a corresponding, multifaceted action strategy to improve the quality of teaching in mathematics and science.

The meeting of the Commission is open to the public. The proposed agenda will focus on (1) What is known about effective teaching that leads to high levels of mathematical and scientific understanding among all students, and (2) What it takes to enable teachers to teach in this way. The proposed agenda will include both plenary sessions and presentations.

Space may be limited and you are encouraged to register if you plan to attend. You may register through the Internet at America__Counts@ed.gov or Jamila__Rattler@ed.gov. Please include your name, title, affiliation, complete address (including e-mail, if available), telephone and fax numbers. If you are unable to register through the Internet, you may fax your registration information to The National Commission on Mathematics and Science Teaching for the 21st Century at (202) 260–7216 or mail to The National Commission on Mathematics and Science Teaching for the 21st Century, US Department of Education, Room 6W252, 400 Maryland Avenue, SW, Washington, DC 20202. The registration deadline is November 22, 1999. Any individual who will need accommodations for a disability in order to attend the meeting (i.e., interpreting services, assistive listening devices, materials in alternative format) should notify Jamila Rattler at (202) 260–8229 by no later than November 17, 1999. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

Records will be kept of all Commission proceedings, and will be available for public inspection at The National Commission on Mathematics and Science Teaching for the 21st Century, 400 Maryland Avenue, SW, Room 6W252 from the hours of 8:30 a.m. to 5:00 p.m. weekdays, except Federal holidays.

Dated: October 27, 1999.

Marshall S. Smith,

Acting Deputy Secretary.

[FR Doc. 99–28839 Filed 11–4–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Draft Supplemental Environmental Impact Statement for the National Ignition Facility Project Specific Analysis Portion of the Stockpile Stewardship and Management Programmatic Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of Availability and opportunity for public comment.

SUMMARY: The Department of Energy (DOE) announces the availability of the Draft Supplemental Environmental Impact Statement (SEIS) for the National Ignition Facility(NIF) Project Specific Analysis portion (Volume III, Appendix I) of the Stockpile Stewardship and Management Programmatic Environmental Impact Statement (SSM PEIS) DOE/EIS–0236–S1 for public review and comment.

DATES: Written comments on the Draft NIF SEIS are invited from the public during the comment period which ends December 20, 1999. Comments must be postmarked by December 20, 1999, to ensure consideration; late comments will be considered to the extent practicable. The DOE will use the comments received to help prepare the Final SEIS.

ADDRESSES: To submit comments in writing to DOE and for additional information contact: Richard Scott, Document Manager, U.S. Department of Energy, L–293, P.O. Box 808, Livermore, CA 94550. Mr. Scott may also be contacted by telephone (925) 423–3022, facsimile (925) 424–3755, or toll-free: (877) 388–4930. Comments may also be sent to the e-mail address richard.scott@oak.doe.gov.

Requests for copies of the Draft NIF SEIS should be addressed to the DOE Oakland Operations Office, Energy Information Center, 1st floor in the North Tower of the Federal Building at 1301 Clay Street in Oakland, CA, (510) 637–1762. The Draft NIF SEIS is available under the NEPA Analysis

Module of the DOE NEPA Web Site at http://tis.eh.doe.gov/nepa/.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Ave., SW, Washington, DC 20585. Ms. Borgstrom may be contacted by calling (202) 586–4600 or by leaving a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION: The Draft NIF SEIS was prepared pursuant to a Joint Stipulation and Order approved and entered as an order of the U.S. District Court for the District of Columbia on October 27, 1997, in partial settlement of the lawsuit, *Natural Resources Defense Council [NRDC]* v. *Richardson,* Civ. No. 97–936 (SS) (D.D.C.). In that Joint Stipulation and Order, DOE agreed to prepare an SEIS evaluating the reasonably foreseeable significant adverse environmental impacts of continuing to construct and of operating NIF at Lawrence Livermore National Laboratory (LLNL) with respect to any potential or confirmed contamination in the area by hazardous, toxic, and/or radioactive materials.

Availability of Draft SEIS

DOE has distributed copies of the Draft NIF SEIS to appropriate Congressional members and committees, the State of California, local governments, other federal agencies, and other interested parties. The Draft NIF SEIS is also available for public review and copying at the following locations: DOE Oakland Operations Office, Energy Information Center, 1st floor in the North Tower of the Federal Building at 1301 Clay Street in Oakland, CA, (510) 637–1762; Lawrence Livermore National Laboratory, East Gate Visitors Center on Greenville Road in Livermore CA, (925) 424–4026; and DOE's Freedom of Information Reading Room, Rm. 1E–190, 1000 Independence Avenue, SW, Washington, DC, (202) 586–3142.

DOE will hold several public meetings to discuss the Draft NIF SEIS, as well as for submitting prepared statements on the Draft NIF SEIS: Wednesday, December 1, 1999, at 2:00 p.m. at the U.S. Department of Energy, 1000 Independence Avenue, SW, Room 6E–069, Washington, DC; and Wednesday, December 8, 1999, at 3:00 p.m. and 6:30 p.m. at LLNL, 7000 East Avenue, Building 312, South Cafeteria Multi-Purpose Room, (located off East Avenue at the intersection of South Gate Drive), Livermore CA.

After the public comment period, which ends December 20, 1999, the Department will consider and respond to the comments received, revise the Draft NIF SEIS as appropriate, and issue a Final NIF SEIS. The Department will consider the analyses in the Final NIF SEIS in making a final Record of Decision.

Issued in Washington, DC on October 25, 1999.

Jonathan S. Ventura,

Acting Executive Assistant, Office of Defense Programs.

[FR Doc. 99–29016 Filed 11–4–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science; Continuation of Solicitation for the Office of Science Financial Assistance Program—Notice 00–01

AGENCY: U.S. Department of Energy.

ACTION: Annual notice of continuation of availability of grants and cooperative agreements.

SUMMARY: The Office of Science of the Department of Energy hereby announces its continuing interest in receiving grant applications for support of work in the following program areas: Basic Energy Sciences, High Energy Physics, Nuclear Physics, Computational and Technology Research, Fusion Energy Sciences, and Biological and Environmental Research. On September 3, 1992 (57 FR 40582), DOE published in the **Federal Register** the Office of Energy Research Financial Assistance Program (now called the Office of Science Financial Assistance Program), 10 CFR Part 605, Final Rule, which contained a solicitation for this program. Information about submission of applications, eligibility, limitations, evaluation and selection processes and other policies and procedures are specified in 10 CFR Part 605.

DATES: Applications may be submitted at any time in response to this Notice of Availability.

ADDRESSES: Applications must be sent to: Director, Grants and Contracts Division, Office of Science, SC–64, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290. When preparing applications, applicants should use the Office of Science Financial Assistance Program Application Guide and Forms located on the World Wide Web at: http://www.sc.doe.gov/production/grants/grants.html. Applicants without Internet access may call 301–903–5212 for information.

SUPPLEMENTARY INFORMATION: This Notice is published annually and remains in effect until it is succeeded by another issuance by the Office of Science. This annual Notice 00–01 succeeds Notice 99–01 which was published November 12, 1998.

It is anticipated that approximately $400 million will be available for grant and cooperative agreement awards in FY 2000. The DOE is under no obligation to pay for any costs associated with the preparation or submission of an application. DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this Notice.

In addition, the following program descriptions are offered to provide more in-depth information on scientific and technical areas of interest to the Office of Science:

1. Basic Energy Sciences

The Basic Energy Sciences (BES) program supports fundamental research in the natural sciences and engineering leading to new and improved energy technologies and to understanding and mitigating the environmental impacts of energy technologies. The science divisions and their objectives are as follows:

(a) Materials Sciences

The objective of this program is to increase the understanding of phenomena and properties important to materials behavior that will contribute to meeting the needs of present and future energy technologies. It is comprised of the subfields metallurgy, ceramics, condensed matter physics, materials chemistry, and related disciplines where the emphasis is on the science of materials.

Program Contact: (301) 903–3427.

(b) Chemical Sciences

The objective of this program is to expand, through support of basic research, knowledge of various areas of chemistry, chemical engineering and atomic molecular and optical physics with a goal of contributing to new or improved processes for developing and using domestic energy resources in an efficient and environmentally sound manner. Disciplinary areas where research is supported include atomic molecular and optical physics; physical, inorganic and organic chemistry; chemical physics; photochemistry; radiation chemistry; analytical chemistry; separations science; actinide chemistry; and chemical engineering sciences.

Program Contact: (301) 903–5804.

(c) Engineering Research

This program's objectives are: (1) to extend the body of knowledge underlying current engineering practice in order to open new ways for enhancing energy savings and production, prolonging useful equipment life, and reducing costs while maintaining output performance, and environmental quality; and (2) to broaden the technical and conceptual base for solving future engineering problems in the energy technologies. Long-term research topics of current interest include: foundations of bioprocessing of fuels and energy related wastes, micro- and nano-scale energy transport, fracture mechanics, fundamental studies of multiphase flows and heat transfer, robotics and intelligent machines, nanotechnology, and diagnostics and control for plasma processing of materials.

Program Contact: (301) 903–5822.

(d) Geosciences

The goal of this program is to develop a quantitative and predictive understanding of geologic processes related to energy, and related to environmental quality. The emphasis is on the upper levels of the earth's crust and the focus is on geophysics, geomechanics, hydrogeology and geochemistry of rock-fluid systems and interactions emphasizing processes taking place at the atomic and molecular scale. Specific topical areas receiving emphasis include: high resolution geophysical imaging; rock physics, physics of fluid transport, and fundamental properties and interactions of rocks, minerals, and fluids. The resulting improved understanding and knowledge base will form the foundation for utilization of the Nation's energy resources in an environmentally acceptable fashion.

Program Contact: (301) 903–5822.

(e) Energy Biosciences

The primary objective of this program is to generate the fundamental understanding of biological mechanisms in the areas of botanical and microbiological sciences that will support biotechnological developments related to DOE's mission. The research serves as the basic information foundation with respect to an environmentally responsible renewable resource production for fuels and chemicals, microbial conversions of renewable materials and biological systems for the conservation of energy. Research focusing on the fundamental mechanistic biosciences underlying carbon management is a particular emphasis. This office has special requirements for the submission of preapplications, when to submit, and the length of the applications. Applicants are encouraged to contact the office regarding these requirements.

Program Contact: (301) 903–2873.

2. High Energy and Nuclear Physics

This program supports about 90% of the U.S. efforts in high energy and nuclear physics. The objectives of these programs are indicated below:

(a) High Energy Physics

The primary objectives of this program are to understand the ultimate structure of matter in terms of the properties and interrelations of its basic constituents, and to understand the nature and relationships among the fundamental forces of nature. The research falls into three broad categories: experimental research, theoretical research, and technology R&D in support of the high energy physics program.

Program Contact: (301) 903–3624.

(b) Nuclear Physics (Including Nuclear Data Program)

The primary objectives of this program are an understanding of the interactions and structures of atomic nuclei and nuclear matter at the most elementary level possible, and an understanding of the fundamental forces of nature as manifested in nuclear matter.

Program Contact: (301) 903–3613.

3. Computational and Technology Research

This program fosters and supports fundamental research in advanced computing research (applied mathematics, computer science and networking), and operates supercomputer, networking, and related facilities to enable the analysis, modeling, simulation, and prediction of complex phenomena important to the Department of Energy.

(a) Mathematical, Information, and Computational Sciences

This subprogram supports a spectrum of fundamental research in applied mathematical sciences, computer science, and networking from basic through prototype development. Results of these efforts are used to form partnerships with users in scientific disciplines to validate the usefulness of the ideas and to develop them into tools. Testbeds on important applications for DOE are supported by this subprogram. Areas of particular focus are:

Applied Mathematics

Research on the underlying mathematical understanding and numerical algorithms to enable effective description and prediction of physical systems such as fluids, magnetized plasmas, or protein molecules. This includes, for example, methods for solving large systems of partial differential equations on parallel computers, techniques for choosing optimal values for parameters in large systems with hundreds to hundreds of thousands of parameters, improving our understanding of fluid turbulence, and developing techniques for reliably estimating the errors in simulations of complex physical phenomena.

Computer Science

Research in computer science to enable large scientific applications through advances in massively parallel computing such as very lightweight operating systems for parallel computers, distributed computing such as development of the Parallel Virtual Machine (PVM) software package which has become an industry standard, and large scale data management and visualization. The development of new computer and computational science techniques will allow scientists to use the most advanced computers without being overwhelmed by the complexity of rewriting their codes every 18 months.

Networking

Research in high performance networks and information surety required to support high performance applications—protocols for high performance networks, methods for measuring the performance of high performance networks, and software to enable high speed connections between high performance computers and networks. The development of high speed communications and collaboration technologies will allow scientists to view, compare, and integrate data from multiple sources remotely.

Program Contact: (301) 903–5800.

4. Fusion Energy Sciences

The mission of the Fusion Energy Sciences program is to advance plasma science, fusion science, and fusion technology—the knowledge base needed for an economically and environmentally attractive fusion energy source. This program is supported by the Office of Fusion Energy Sciences (OFES), which fosters both applied and basic research and emphasizes international collaboration to accomplish this mission.

(a) Research Division

This Division seeks to develop the physics knowledge base needed to advance the Fusion Energy Sciences program toward its goals. Research into physics issues associated with medium to large scale confinement devices is essential to studying conditions relevant to the production of fusion energy. Experiments on these scale of devices are used to explore the limits of specific confinement concepts, as well as study associated physical phenomena. Specific areas of interest include: (1) The production of increased plasma densities and temperatures, (2) the understanding of the physical laws governing plasma energy of high plasma pressure, (3) the investigation of plasma interaction with radio frequency waves, and (4) the study and control of particle transport and exhaust in plasmas.

Research is also carried out in the following areas: (1) Basic plasma science research directed at furthering the understanding of fundamental processes in plasmas; (2) improving the theoretical understanding of fusion plasmas necessary for interpreting results from present experiments and the planning and design of future confinement devices, (3) obtaining the critical data on plasma properties, atomic physics and new diagnostic techniques for support of confinement experiments, (4) supporting exploratory research on innovative confinement concepts, and (5) carrying out research on issues that support the development of Inertial Fusion Energy, for which target development is carried out by the Department of Energy's Defense Programs.

Program Contact: (301) 903–4095.

(b) Facilities and Enabling Technologies Division

This Division is responsible for overseeing the facility operations and enabling research and development activity budgets within the OFES. Grant program opportunities are in the enabling research and development activity. (Grants for scientific use of the facilities operated/maintained by this Division should be addressed to the Research Division.) The enabling technologies program supports the advancement of fusion science in the nearer-term by carrying out research on technological topics that: (1) Enable domestic experiments to achieve their full performance potential and scientific research goals, (2) permit scientific exploitation of the performance gains being sought from physics concept improvements, (3) allow the US to enter into international collaborations gaining access to experimental conditions not available domestically, and (4) explore the science underlying these technological advances.

The enabling technologies program supports pursuit of fusion energy science for the longer-term by conducting research aimed at innovative technologies, designs and materials to point toward an attractive fusion energy vision and affordable pathways for optimized fusion development.

Program Contact: (301) 903–306.

5. Biological and Environmental Research Program

For over 50 years the Biological and Environmental Research (BER) Program has been investing to advance environmental and biomedical knowledge connected to energy. The BER program provides fundamental science to underpin the business thrusts of the Department's strategic plan. Through its support of peer-reviewed research at national laboratories, universities, and private institutions, the program develops the knowledge needed to identify, understand, and anticipate the long-term health and environmental consequences of energy production, development, and use.

(a) Life Sciences Research

Research is focused on utilizing unique DOE resources and facilities to develop fundamental biological information and advanced technologies for understanding and mitigating the potential health effects of energy development, energy use, and waste cleanup. The objectives are: (1) To create and apply new technologies and resources in mapping, sequencing, and information management for characterizing the molecular nature of the human genome; (2) to develop and support DOE national user facilities for use in fundamental structural biology; (3) to use model organisms to understand human genome organization, human gene function and control, and the functional relationships between human genes and proteins; (4) to characterize and exploit the genomes and diversity of microbes with potential relevance for energy, bioremediation, or global climate; (5) to understand and characterize the risks to human health from exposures to low levels of radiation and chemicals; (6) to develop novel technologies for high throughput determination of protein structure; and (7) to anticipate and address ethical, legal, and social implications arising from genome research.

Program Contact: (301) 903–5468.

(b) Medical Applications and Measurement Science

The research is designed to develop beneficial applications of nuclear and other energy-related technologies for medical diagnosis and treatment. The research is directed at discovering new applications of radiotracer agents for medical research as well as for clinical diagnosis and therapy. A major emphasis is placed on application of the latest concepts and developments in genomics, structural biology, computational biology, and instrumentation. Much of the research seeks breakthroughs in noninvasive imaging technologies such as positron emission tomography. The measurement science activities focus on research in the basic science of chemistry, physics and engineering as applied to bioengineering.

Program Contact: (301) 903–3213.

(c) Environmental Remediation

The research is primarily focused on the fundamental biological, chemical, geological, and physical processes that must be understood for the development and advancement of new, effective, and efficient processes for the remediation and restoration of the Nation's nuclear weapons production sites. Priorities of this research are bioremediation and operation of the William R. Wiley Environmental Molecular Sciences Laboratory (EMSL). Bioremediation activities are centered on the Natural and Accelerated Bioremediation Research (NABIR) program, a basic research program focused on determining the conditions under which bioremediation will be a reliable, efficient, and cost-effective technique. This subprogram also includes basic research in support of pollution prevention, sustainable technology development and other fundamental research to address problems of environmental contamination.

Program Contact: (301) 903–3281.

(d) Environmental Processes

The program seeks to understand the basic chemical, physical, and biological processes of the Earth's atmosphere, land, and oceans and how these processes may be affected by energy production and use. The research is designed to provide the data that will enable an objective assessment of the potential for, and consequences of, global warming. The program is comprehensive with an emphasis on understanding the radiation balance from the surface of the Earth to the top of the atmosphere (including the role of clouds) and on enhancing the

quantitative models necessary to predict possible climate change at the global and regional scales.

The Climate Change Technology Initiative (CCTI) seeks the understanding necessary to exploit the biosphere's natural processes to enhance the sequestration of atmospheric carbon dioxide in terrestrial systems and the ocean. The CCTI includes research to identify and understand the environmental and biological factors or processes that limit the sequestration of carbon in these systems, and to develop approaches for overcoming such limitations to enhance sequestration. The research includes studies on terrestrial and ocean carbon sequestration, including the role of marine microorganisms and other types of terrestrial ecosystems.

Program Contact: (301) 903–3281.

6. Experimental Program to Stimulate Competitive Research (EPSCoR)

The objective of the EPSCoR program is to enhance the capabilities of EPSCoR states to conduct nationally competitive energy-related research and to develop science and engineering manpower to meet current and future needs in energy-related fields. This program addresses research needs across all of the Department of Energy research interests. Research supported by the EPSCoR program is concerned with the same broad research areas addressed by the Office of Science programs that are described above. The EPSCoR program is restricted to applications which originate in eighteen states (Alabama, Arkansas, Idaho, Kansas, Kentucky, Louisiana, Maine, Mississippi, Montana, Nebraska, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, Vermont, West Virginia, and Wyoming) and the commonwealth of Puerto Rico. It is anticipated that only a limited number of new competitive research grants will be awarded under this program due to prior commitments to ongoing EPSCoR grant projects.

Program Contact: (301) 903–3427.

Issued in Washington, DC on October 18, 1999.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 99–29018 Filed 11–4–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Nonproliferation and National Security, Nonproliferation and National Security Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of Partially Closed Meeting.

SUMMARY: This notice announces a meeting of the Nonproliferation and National Security Advisory Committee. The Federal Advisory Committee Act, 5 U.S.C. App. 2 § 10(a)(2) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, November 30, 1999, 9:00 a.m. to 5:00 p.m.; Wednesday, December 1, 1999, 9:00 a.m. to 5:00 p.m.; and Thursday, December 2, 1999, 9:00 a.m. to 12:00 noon.

ADDRESSES: Department of Energy, Room 4A104, Forrestal Building, 1000 Independence Avenue, SW, Washington D.C. 20585.

Note: Members of the public are requested to contact Leslie Pitts at (202) 586–7994, in advance of the meeting (if possible), to expedite their entry to the Forrestal Building on the day of the public meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Waldron (202–586–2400), Designated Federal Officer, Office of Nonproliferation Research and Engineering (NN–20), Office of Nonproliferation and National Security, 1000 Independence Avenue, SW, Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION: The purpose of the Committee: To provide the Secretary of Energy and the Assistant Secretary for Nonproliferation and National Security with advice, information, and recommendations on national research needs and priorities.

Purpose of the Meeting: To discuss the nonproliferation and national security research, development, and policy programs.

Tentative Agenda

Tuesday, November 30, 1999

9:00 a.m.–11:00 a.m. Introduction of the members of the Committee. Discussion of the role of DOE advisory committees in general and this Committee in particular.

11:00 a.m.–12:00 p.m. Public comment period (oral presentations are limited to 10 minutes).

Tuesday, November 30, 1999

1:00 p.m.–5:00 p.m. Closed Meeting

Wednesday, December 1, 1999

9:00 p.m.–12:00 p.m. Closed Meeting
12:00 p.m.–1:00 p.m. Working Lunch
1:00 p.m.–5:00 p.m. Closed Meeting

Thursday, December 2, 1999

9:00 a.m.–12:00 p.m. Closed Meeting

Public Participation: The meeting on the morning of November 30, 1999, is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in the Chairman's judgement, facilitate the orderly conduct of business. Persons wishing to attend the open meeting should contact Leslie Pitts at (202) 586–7994 by November 24, 1999 to arrange for visitor passes to the Forrestal Building.

Any member of the public who wishes to make an oral statement pertaining to agenda items should contact Leslie Pitts at the phone number given above. Requests must be received before 3:00 p.m. (e.s.t.) Wednesday, November 24, 1999. Reasonable provisions will be made to include the presentation during the public comment period. It is requested that oral presenters provide 25 copies of their statements at the time of their presentations.

Written statements pertaining to agenda items may also be submitted prior to the meeting. Written statements must be received by the Designated Federal Officer at the address shown above before 3:00 p.m. (e.s.t.) Wednesday, November 24, 1999 to assure that they are considered by the Committee members during the meeting.

Closed Meeting: In the interest of national security, after the public meeting on the morning of November 30, 1999, the remainder of the meeting will be closed to the public, pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 § 10 (d), and the Federal Advisory Committee Management regulation, 41 C.F.R. § 101–6.1023, ''Procedures for Closing an Advisory Committee Meeting'', which incorporate by reference the Government in Sunshine Act, 5 U.S.C. § 552b, which, at §§ 552b(c)(1) and (c)(3) permits closure of meetings where restricted data or other classified matters are discussed.

Minutes: Minutes of the open portion of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, Room 1E–190, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585 between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal Holidays.

Issued at Washington, D.C. on October 29, 1999

Rachel M. Samuel,

Deputy Advisory Committee, Management Officer

[FR Doc. 99–29020 Filed 11–4–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Nuclear Energy Research Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Nuclear Energy Research Advisory Committee. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770), requires that public notice of the meetings be announced in the **Federal Register**.

DATES: Monday, December 6 1999, 10:30 a.m. to 5:30 p.m.; and Tuesday, December 7, 1999 8:00 a.m. to 12:30 p.m.

ADDRESSES: Hyatt Regency Crystal City 2799 Jefferson Davis Highway Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Dr. Norton Haberman, Designated Federal Officer, Nuclear Energy Research Advisory Committee, U.S. Department of Energy, NE–1, 1000 Independence Avenue, S.W. Washington DC 20585, Telephone Number 202.586.0136, E-mail: Norton.Haberman@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: To provide advice to the Director of the Office of Nuclear Energy, Science and Technology (NE) of the Department of Energy on the many complex planning, scientific and technical issues that arise in the development and implementation of the Nuclear Energy research program.

Tentative Agenda

Monday, December 6, 1999

Welcome remarks
Nuclear Energy Research Initiatives
DOE Laboratory Update
Report of NERAC Subcommittees
Accelerator Transmutation of Waste

Tuesday, December 7, 1999

Report of NERAC Subcommittees
New NERAC Study Panels
Public comment period

Public Participation: The day and a half meeting is open to the public on a first-come, first-serve basis because of limited seating. Written statements may be filed with the committee before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Norton Haberman at the address or telephone listed above. Requests to make oral statements must be made and received five days prior to the meeting; reasonable provision will be made to include the statement in the agenda. The Chair of the committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Reading Room. 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C. on November 1, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–29019 Filed 11–4–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of International Affairs; U.S.-Africa Energy Ministers Conference

AGENCY: Department of Energy.

ACTION: Notice of upcoming conference.

SUMMARY: The U.S. Department of Energy and the City of Tucson, Arizona will co-sponsor the U.S.-Africa Energy Ministers Conference: A Partnership for the 21st Century, in Tucson, Arizona. The focus of the three-day Conference will be in the creation of a positive environment for investment in Africa's energy infrastructure, creating new markets for oil and gas development and promoting technologies that will foster economic development and engineering growth in a way which protects Africa's environment for the 21st century.

DATES: The three-day conference will be held from December 13–15, 1999.

Attendees: Approximately 600 participants are expected to attend the event, including African energy ministers, international organizations, private sector representatives, regional African organizations and academic institutions.

FOR FURTHER INFORMATION CONTACT: For further information and to register on line, please visit our website on *www.africaenergy.org.* You may also contact Soma Martin, a representative with SOBRAN Inc., on 703–352–9511, for further information regarding the conference. For inquiries regarding exhibits for industry displays, please contact Mary Okoye in Tucson, Arizona by telephone on 520–791–4204, or by email at *MOkoye1@mail.ci.tucson.az.us.*

SUPPLEMENTARY INFORMATION: The meeting will be the first continent-wide gathering of Africa energy ministers. Initial plans for the conference were announced in April as part of Secretary of Energy Richardson's Africa Energy Initiative following President Clinton's U.S.-Africa Partnership to promote democracy, good governance, human rights, trade and investment, and global integration.

Issued in Washington, D.C. on November 1, 1999.

David L. Goldwyn,

Assistant Secretary for International Affairs.

[FR Doc. 99–29017 Filed 11–4–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–117–008]

K N Interstate Gas Transmission Co., Notice of Proposed Changes in FERC Gas Tariff

November 1, 1999.

Take notice that on October 21, 1999, K N Interstate Gas Transmission Co. (KNI), requested that the Commission reconsider, or in the alternative, grant rehearing of its October 6 Letter Order, and filed tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1–A and First Revised Volume No. 1–C, set out below. However, KNI has also requested reconsideration or rehearing of the October 6, 1999 Letter Order mandating this filing.

The following tariff sheets to become effective August 1, 1998:

Third Revised Volume No. 1–A

Fourth Sub. Second Revised Sheet No. 4A
Fourth Sub. Second Revised Sheet No. 4C
Fourth Sub. Fifth Revised Sheet No. 4D

The following tariff sheets to become effective January 1, 1999:

Third Revised Volume No. 1–A

Third Sub. Sixth Revised Sheet No. 4D

The following tariff sheets to become effective June 1, 1999:

Third Revised Volume No. 1–A

Second Sub. Third Revised Sheet No. 4A
Second Sub. Third Revised Sheet No. 4C
Second Sub. Seventh Revised Sheet No. 4D

First Revised Volume No. 1–C

Second Sub. Twelfth Revised Sheet No. 4

KNI has served copies of this filing upon all jurisdictional customers, interested State Commissions, and other interested parties.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be

filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–28977 Filed 11–4–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–331–011]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 1, 1999.

Take notice that on October 21, 1999, National Fuel Gas Supply Corporation (National Fuel), tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Original Sheet No. 13, with a proposed effective date of November 1, 1999.

National Fuel states that the filing is made to implement firm storage agreements between National Fuel and National Fuel Resources, Inc. (NFR), TXU Energy Trading Company (TXU), and Engage U.S., L.P. (Engage). National Fuel states that each of these agreements provides for negotiated rates pursuant to GT&C Section 17.2 of National Fuel's tariff and the Commission's policy regarding negotiated rates. National Fuel states that under its agreements with NFR, TXU and Engage, firm storage service would be provided under its FSS Rate Schedule at a formula rate based upon the difference between the price of gas at Niagara, as published by Gas Daily, applicable at the time of injection, and such price applicable at the time of withdrawal. The specific formula is set forth in the amendments to the agreements, which accompany National Fuel's tariff filing.

National Fuel states that copies of this filing were served upon its customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–28976 Filed 11–4–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–24–001]

Transcontinental Gas Pipe Line Corporation; Notice of Filing

November 1, 1999.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing in the referenced docket on October 21, 1999 a revised tariff sheet to its FERC Gas Tariff, Third Revised Volume No. 1. The effective date for the revised tariff sheet is December 1, 1999.

Transco states that its Cash Out Modification filing of October 13, 1999 in Docket No. RP00–24 (October 13 Filing) inadvertently left out part of a phrase in the General Terms and Conditions Section 37.1(b) that describes how the imbalance percentage for a shipper is calculated. The imbalance percentage calculation process is currently in Transco's tariff and not among the cash out provisions that Transco proposes to modify in its October 13 filing. The purpose of the filing is to supplement the October 13 Filing to reflect the correct imbalance percentage calculation.

In accordance with the provisions of Section 154.2(d) of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at Transco's main office at 2800 Post Oak Boulevard in Houston, Texas. In addition, Transco is serving copies of the instant filing to its affected customers and interested State Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be riewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–28978 Filed 11–4–99 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER94–1384–026, et al.]

Morgan Stanley Capital Group, et al.; Electric Rate and Corporate Regulation Filings

October 29, 1999.

Take notice that the following filings have been made with the Commission:

1. Morgan Stanley Capital Group, Inc., Niagara Mohawk Energy Marketing, Inc. and North American Energy Conservation, Inc.

[Docket Nos. ER94–1384–026, ER96–2525–013 and ER94–152–023]

Take notice that on October 26, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

2. Exact Power Co., Inc.

[Docket No. ER97–382–011]

Take notice that on October 27, 1999, Exact Power Co. filed its quarterly report for the quarter ending September 30, 1999 for information only.

3. PECO Energy Company

[Docket No. ER00–229–000]

Take notice that on October 26, 1999, PECO Energy Company filed their quarterly report for the quarter ending September 30, 1999.

Comment date: November 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. ISO New England Inc.

[Docket No. ER00–244–000]

Take notice that on October 27, 1999, ISO New England Inc. filed their

quarterly report for the quarter ending September 30, 1999.

Comment date: November 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Louisville Gas and Electric Company, Cadillac Renewable Energy LLC and Indeck-Olean Limited Partnership

[Docket Nos. ER00–249–000, ER00–250–000 and ER00–251–000]

Take notice that on October 26, 1999, the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarter ending September 30, 1999.

Comment date: November 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. DTE-CoEnergy, L.L.C.

[Docket No. EC00–14–000]

Take notice that on October 25, 1999, DTE-CoEnergy, L.L.C., tendered for filing an application for authorization to transfer a master sales agreement between itself and Green Mountain Energy Resources, L.L.C., to DTE Energy Trading, Inc.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Carolina Power & Light Company

[Docket No. EC00–15–000]

Take notice that on October 26, 1999, Carolina Power & Light Company (CP&L), tendered for filing an application pursuant to Section 203 of the Federal Power Act for authorization to implement a corporate reorganization involving the creation of a new holding company to be known as CP&L Holdings, Inc., that will hold the common stock of CP&L.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Cherokee County Cogeneration Partners, L.P. v. Duke Electric Transmission, a Division of Duke Energy Corporation

[Docket No. EL00–9–000]

Take notice that on October 27, 1999, Cherokee County Cogeneration Partners, L.P., tendered for filing a complaint against Duke Electric Transmission, a division of Duke Energy Corporation, alleging violations of the Federal Power Act and the Commission's Regulations.

Comment date: November 16, 1999, in accordance with Standard Paragraph E at the end of this notice. Answers to the Complaint shall also be due on or before November 16, 1999.

9. Consolidated Edison Company of New York, Inc., and Orange and Rockland Utilities, Inc.

[Docket No. ER98–4510–002]

Take notice that on October 26, 1999, Consolidated Edison Company of New York, Inc. (Con Edison) and Orange and Rockland Utilities, Inc., and it jurisdictional subsidiaries (O&R), tendered for filing a letter requesting that the effective date of the revised tariff sheets, which were filed on August 9, 1999, amending the Consolidated Edison Operating Companies FERC Electric Tariff Original Volume No. 1 (Joint OATT), be deferred to December 1, 1999.

The proposed tariff sheets were filed in compliance with the requirement of the January 27, 1999 order in this proceeding (86 FERC ¶61,063) that Con Edison and O&R establish rates to apply under the Joint OATT in the event that the New York Independent System Operator (NYISO) was not operational by the date of the Con Edison and O&R merger.

In anticipation of a commencement of NYISO operations on November 11, 1999, Con Edison and O&R propose to defer the effective date of the Joint OATT rates.

Comment date: November 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Puget Sound Energy, Inc.

[Docket No. ER00–204–000]

Take notice that on October 25, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Dynegy Power Marketing, Inc. (DPMI).

A copy of the filing was served upon DPMI.

Comment date: November 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Puget Sound Energy, Inc.

[Docket No. ER00–205–000]

Take notice that on October 25, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Reliant Energy Services, Inc. (Reliant).

A copy of the filing was served upon Reliant.

Comment date: November 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Maine Public Service Company

[Docket No. ER00–206–000]

Take notice that on October 25, 1999, Maine Public Service Company (Maine Public), tendered for filing an executed Service Agreement for non-firm point-to-point transmission service under Maine Public's open access transmission tariff with WPS Energy Services Inc.

Comment date: November 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Consolidated Edison Company of New York, Inc.

[Docket No. ER00–211–000]

Take notice that on October 25, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule FERC No. 117, an agreement to provide interconnection and transmission service to Keyspan/Long Island Power Authority (Keyspan). The Supplement provides for a decrease in the annual fixed rate carrying charges.

Con Edison has requested that this decrease take effect as of September 1, 1999.

Con Edison states a copy of this filing has been served by mail upon Keyspan.

Comment date: November 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Consolidated Edison Company of New York, Inc.

[Docket No. ER00–212–000]

Take notice that on October 25, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule, Con Edison Rate Schedule FERC No. 130, a facilities agreement with the New York Power Authority (NYPA).

Con Edison has requested that the Supplement take effect as of July 1, 1999.

Con Edison states that a copy of this filing has been served by mail upon NYPA.

Comment date: November 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Puget Sound Energy, Inc.

[Docket No. ER00–216–000]

Take notice that on October 25, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Notice of Cancellation of a Service Agreement filed under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Dynegy Marketing and Trade (Dynegy).

PSE states that a copy of the filing was served upon Dynegy Marketing and Trade.

Comment date: November 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Puget Sound Energy, Inc.

[Docket No. ER00–217–000]

Take notice that on October 25, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Notice of Cancellation of a Service Agreement filed under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with NorAm Energy Services, Inc., (NorAm).

PSE states that a copy of this filing was served upon Reliant Energy Services, Inc., (formerly known as NorAm).

Comment date: November 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Puget Sound Energy, Inc.

[Docket No. ER00–218–000]

Take notice that on October 25, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Notice of Cancellation of a Service Agreement filed under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Pacific Gas & Electric Company (PG&E).

PSE states that a copy of the filing was served upon PG&E.

Comment date: November 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Consolidated Edison Company of New York, Inc.

[Docket No. ER00–227–000]

Take notice that on October 26, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing, a Supplement to its Rate Schedule, Con Edison Rate Schedule FERC No. 123, a facilities agreement with Central Hudson Gas and Electric Corporation (CH). The Supplement provides for a decrease in the monthly carrying charges.

Con Edison has requested that this decrease take effect as of August 1, 1999.

Con Edison states that a copy of this filing has been served by mail upon CH.

Comment date: November 15, 1999, in accordance with Standrd paragraph E at the end of this notice.

19. Wisconsin Public Service Corporation

[Docket No. ER00–228–000]

Take notice that on October 26, 1999, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Service Agreement with InPOwer Marketing Corp., providing for transmission service under FERC Electric Tariff, Volume No. 1.

Comment date: November 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Florida Power Corporation

[Docket No. ER00–230–000]

Take notice that on October 26, 1999, Florida Power Corporation (Florida Power), tendered for filing a service agreement and a network operating agreement providing for network contract demand transmission service by Florida Power to the City of Tallahassee (Tallahassee) pursuant to its open access transmission tariff.

Florida Power requests that the Commission waive its notice of filing requirements and allow the agreements to become effective on October 27, 1999.

Comment date: November 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Wisconsin Public Service Corporation

[Docket No. ER00–231–000]

Take notice that on October 26, 1999, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Service Agreement with InPOwer Marketing Corp., providing for transmission service under FERC Electric Tariff, Volume No. 1.

Comment date: November 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Consolidated Edison Company of New York, Inc.

[Docket No. ER00–226–000]

Take notice that on October 26, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule, Con Edison Rate Schedule FERC No. 2, a facilities agreement with Central Hudson Gas and Electric Corporation (CH). The Supplement provides for a decrease in the monthly carrying charges.

Con Edison has requested that this decrease take effect as of October 1, 1999.

Con Edison states that a copy of this filing has been served by mail upon CH.

Comment date: November 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Seminole Electric Cooperative, Inc.

[Docket No. OA97–140–001]

Take notice that on September 30, 1999, Seminole Electric Cooperative, Inc. (Seminole) filed standards of conduct under Order Nos. 889 *et seq.* [1]

Seminole states that it has served a copy of its standards of conduct filing on all parties listed on the service list in this proceeding.

Comment date: November 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER00–209–000]

Take notice that on October 25, 1999, Louisville Gas Electric Company (LG&E)/Kentucky Utilities (KU) (Companies), tendered for filing and executed unilateral Service Agreement between the Companies and Southeast Power Administration under the Companies Rate Schedule MBSS.

Comment date: November 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. White River Electric Association Incorporated

[Docket No. ER00–208–000]

Take notice that on October 25, 1999, White River Electric Association Incorporated (White River), tendered for filing its Letter of Agreement for Sale and Transmission of Emergency Power Between White River Electric Association Incorporated and Yampa Valley Electric Association, Inc. (YVEA Agreement) and Agreement to Allow Coordination Transactions Regarding Transfer of C-a Transmission Line and Substation Between Moon Lake Electric Association, Inc., and White River Electric Association, Inc. (Moon Lake Agreement) pursuant to § 205 of the Federal Power Act (FPA), 16 U.S.C. 824d, and 35.12 of the Regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR 35.12. White River's filing is available for public inspection at its offices in Meeker, Colorado.

White River requests that the Commission accept the agreements with an effective date of October 26, 1999.

Comment date: November 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a

[1] Open Access Same-time Information System (Formerly Real-Time Information network) and Standards of Conduct, 61 FR 21737 (May 10, 1996), FERC Stats. & Regs., Regulations Preambles January 1991–1996 ¶ 31,035 (April 24, 1996); Order No. 889–A, *order on rehearing,* 62 FR 12484 (March 14, 1997), III FERC Stats. & Regs. ¶ 31,049 (March 4, 1997); Order No. 889–B, *rehearing denied,* 62 FR 64715 (December 9, 1997), III FERC Stats. & Regs. ¶ 31,253 (November 25, 1997).

motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–28979 Filed 11–4–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6247–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7157 OR www.epa.gov/oeca/ofa.

Weekly receipt of Environmental Impact Statements Filed October 25, 1999 Through October 29, 1999 Pursuant to 40 CFR 1506.9.

EIS No. 990404, FINAL EIS, NPS, CA, Backcounty and Wilderness Management Plan, General Management Plan Amendment, Joshua Tree National Park, Riverside and San Bernardino Counties, CA, Due: December 06, 1999, Contact: Alan Schmierer (415) 427–1441.

EIS No. 990405, FINAL EIS, NPS, CA, Fort Baker Site, Golden Gate National Recreation Area, Comprehensive Management Plan, Implementation, Marin County, CA, Due: December 06, 1999, Contact: Alan Schmierer (415) 427–1441.

EIS No. 990406, FINAL EIS, AFS, ID, WY, Targhee National Forest Open Road and Open Motorized Trail Analysis, To Implement a new Travel Plan, several counties, ID and Lincoln and Teton Counties, WY, Due: December 06, 1999, Contact: Alan Silker (208) 624–3151.

EIS No. 990407, FINAL EIS, USN, NC, Introduction of the V–22 ''Osprey'' a new Type of Tiltrotor Aircraft, Replacement or Renovation of the facilities used to house Aircraft, Full Basing at MCAS Cherry Point and/or Partial Basing at both MCAS New River and Cherry Point, COE Section 404 Permit, NC, Due: December 06, 1999, Contact: James Haluska (757) 322–4889.

EIS No. 990408, DRAFT EIS, FHW, PA, Mon/Fayette Transportation Project, Improvements from Uniontown to Brownsville Area, Funding and COE Section 404 Permit, Fayette and Washington Counties, PA, Due: January 07, 2000, Contact: Ronald W. Carmichael, P.E. (717) 221–3461.

EIS No. 990409, FINAL EIS, FTA, OR, WA, OR, South/North Corridor Project, Improvements to the Existing Urban Transportation, Funding, Multnomah, Clackamas and Washington Counties, OR and Clark County, WA, Due: December 06, 1999, Contact: Ross Roberts (503) 797–1756.

EIS No. 990410, DRAFT SUPPLEMENT, DOE, TN, GA, TX, SC, MO, Programmatic EIS-Stockpile Stewardship and Management Project, Reduced Nuclear Weapons Stockpile in the Absence of Underground Testing, Eight Sites: Oak Ridge Reservation (ORR), Savannah River Site (SRS), Kansas City Plant (KCP) Pantex Plant, Los Alamos Nat'l Lab., Lawrence Livermore Nat'l Lab., Sandia Nat'l and Nevada Test Site, Due: December 20, 1999, Contact: Richard Scott (925) 423–3022.

EIS No. 990411, DRAFT EIS, FHW, CA, CA–70 Upgrade in Sutter and Yuba Counties, To Four-Lane Expressway/Freeway, From 0.6 miles South of Striplin Road to 0.3 miles South of McGowan Road Overcrossing, Funding and COE Section 404 Permit, Sutter and Yuba Counties, CA, Due: December 20, 1999, Contact: Robert F. Talley (916) 498–5041.

EIS No. 990412, FINAL EIS, AFS, UT, Brighton Ski Resort Master Development Plan Updated, Implementation, Wasatch-Cache National Forest, Salt Lake City, UT, Due: December 6, 1999, Contact: Steve Scheid (801) 733–2689.

EIS No. 990413, DRAFT EIS, AFS, ID, Salmon River Canyon Project, Implementation, Nez Perce, Payette, Bitterroot and Salmon-Challis National Forests, Idaho County, ID, Due: December 20, 1999, Contact: Bill Shields (208) 983–1950.

EIS No. 990414, DRAFT EIS, NPS, AZ, Chiricahua National Monument, General Management Plan, To Protect Certain National Formations, Known as ''the Pinnacles', AZ, Due: January 30, 2000, Contact: Christine Maylath (303) 969–2851.

EIS No. 990415, DRAFT EIS, IBR, CA, Lower Mokelumne River Restoration Program, Implementation, Resource Management Plan, San Joaquin County, CA, Due: January 4, 2000, Contact: Buford Holt (530) 275–1554.

EIS No. 990416, FINAL EIS, FTA, WA, Central Link Light Rail Transit Project, (Sound Transit) Construct and Operate an Electric Rail Transit System, Funding and COE Section 10 and 404 Permits, In the Cities of Seattle, Sea Tac and Tuckwila, King County, WA, Due: December 6, 1999, Contact: Helen Knoll (206) 220–7954.

EIS No. 990417, FINAL EIS, IBR, CA, Programmatic EIS—Central Valley Project Improvement Act (CVPIA) of 1992 Implementation, Central Valley, Trinity, Contra Costa, Alameda, Santa Clara and San Benito Counties, CA, Due: December 6, 1999, Contact: Alan Candish (916) 978–5197.

Amended Notices

EIS No. 990229, DRAFT EIS, AFS, MT, NB, WY, ND, SD, Dakota Prairie Grasslands, Nebraska National Forest Units and Thunder Basin National Grassland, Land and Resource Management Plans 1999 Revisions, Implementation, MT, NB, WY, ND and SD, Due: November 29, 1999, Contact: Pam Gardner (308) 432–0300. Published FR–10–01–99—Review Period Extended. From 11–15–99 to 01–07–2000.

EIS No. 990317, DRAFT EIS, COE, OH, Ashtabula River and Harbor Dredging and Disposal Project, Design, Construction, Operation and Maintenace, Ashtabula River Partnership (ARP), Ashtabula County, OH, Due: October 25, 1999, Contact: John Mahan (440) 964–0277. Published FR 09–10–99—Review Period extended. From 10–25–99 to 11–09–99.

EIS No. 990332, DRAFT EIS, FRC, IL, MI, IN, TriState Pipeline Project, Construction and Docket Nos.: CP99–61–000, CP99–62–000, CP99–63–000 and CP99–64–000, Presidential Permit, IL, IN and MI, Due: January 15, 2000, Contact: Paul McKee (202) 208–1088. Published FR 09–24–99 Review Period Extended. From 11–08–99 to 01–15–2000.

EIS No. 990397, DRAFT EIS, FAA, OH, Cleveland Hopkins International Airport, To Provide Capacity, Facilities, Highway Improvements, and Enhancement to Safety, Funding, Cuyahoga County, OH, Due: December 29, 1999, Contact: Ernest P. Guby (734) 487–7280. Published FR–10–29–99—Correction to Comment Period.

Dated: November 2, 1999.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–29079 Filed 11–4–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6247–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 18, 1999 Through October 22, 1999 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1999 (63 FR 17856).

Draft EISs

ERP No. D–AFS–J65314–MT Rating EC2, Flathead National Forest, Swan Lake Ranger District, Meadow Smith Project, Vegetative Treatments and Other Activities to Maintain and Restore Large-Tree Old Grow Forest Characteristics, Lake and Missoula Counties, MT.

Summary: EPA expressed environmental concerns with potential adverse impacts to the watershed from proposed road density.

EPA believes additional monitoring information is needed to fully assess and mitigate all potential impacts of the management actions.

ERP No. D–BLM–G65069–NM Rating EC2, Rio Puerco Resource Management Plan Amendment, Managing Land and Resource for EL Malpais National Conservation Area and Chain of Craters Wilderness Study Area, Lies South of the City of Grants, Cibola County, NM.

Summary: EPA has identified environmental concerns in the areas of mitigation, livestock grazing, water quality, recreation, transportation, cultural resources, wildlife habitat, and environmental justice. EPA requested that these issues be clarified in the final document.

ERP No. D–COE–C30010–NJ Rating EC2, Barnegat Inlet to Little Egg Inlet Hurricane and Storm Damage Protection, Implementation, Long Beach Island, Ocean County, NJ.

Summary: EPA expressed environmental concerns about the potential cumulative impacts associated with this and other related erosion/storm damage protection projects in the area. EPA requested that additional information be presented in the final EIS to address this issue.

ERP No. D–FHW–E40780–NC Rating EC2, US–1 Transportation Improvements, From Sandhill Road (SR–197) to North to Fox Road (SR–1606), Funding and COE Section 404 Permit, City of Rockingham, Richmond County, NC.

Summary: EPA expressed concern regarding purpose and need, alternatives and wetland impacts. EPA requested that these issues be clarified and mitigated as necessary.

ERP No. D–FHW–J40150–ND Rating LO, Interstate 29 Reconstruction Project, Improvements from Rose Coulee to Cass County Road No. 20, Funding, City of Fargo, ND.

Summary: EPA requested additional information and clarification related to project alternatives. The review did not identify and potential impacts requiring substantive changes to the proposal.

ERP No. D–USN–K11103–GU Rating EC2, Surplus Navy Property Identified in the Guam Land Use Plan (GLUP '94) for Disposal and Reuse, Implementation, GU.

Summary: EPA expressed concerns about the air modeling data and cumulative impacts analysis. EPA requested that the air quality data be corrected and that additional cumulative impacts analysis be provided in the final document.

Final EISs

ERP No. F–AFS–L65308–ID, Eagle Bird Project Area, Timber Harvesting and Road Construction, Idaho Panhandle National Forests, St. Joe Ranger District, Shoshone County, ID.

Summary: EPA continues to be concerned that funding for road improvements and obliteration are uncertain. Thus, impacts from the project may not be completely mitigated.

ERP No. F–FHW–F40374–MN, MN–TH–14 Corridor Reconstruction, MN–TH–60 to I–35, Funding and COE Section 404 Permit Issuance, Blue Earth, Waseca and Steele Counties, MN.

Summary: EPA expressed environmental concerns with the completeness of the traffic analysis used in the FEIS and a potential discrepancy in the FEIS regarding the total amount of wetland impacts. EPA recommends that these two issues be resolved in the Record of Decision and that narrow construction limits be used to reduce wetland impacts.

ERP No. F–USN–K11094–00, Developing Home Port Facilities For Three NIMITZ-Class Aircraft Carriers in Support of the U.S. Pacific Fleet, Construction and Operation, Coronado, CA; Bremerton and Everett, WA, Pearl Harbor, HI.

Summary: EPA expressed a continuing concern regarding sediment quality, dredging and dredged material disposal issues at Pearl Harbor Naval Shipyard and, to a lesser extent, at North Island Naval Air Station, asking that the Navy address these issues in its NEPA Record of Decision and/or in any subsequent permit application(s) to the Army Corps of Engineers. On other issues the FEIS was generally responsive to prior concerns EPA raised on the Draft EIS.

ERP No. FA–NIH–D81023–MD, National Institutes of Health Bethesda Main Campus Comprehensive Master Plan, Updated and Additional Information for the Revision to the Northwest Sector Plan, Montgomery County, MD.

Summary: EPA has determined that the U.S. Department of Health and Human Services has adequately addressed its comments within the Final Supplemental EIS.

ERP No. FS–NRC–A00164–00, Generic EIS—License Renewal of Nuclear Power Plants Operating Licenses, NUREG–1437 Addendum 1.

Summary: No formal comment letter sent to preparing agency.

Dated: November 2, 1999.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–29080 Filed 11–4–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6471–2]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 104, Announcement of Proposal Deadline for the Competition for the FY 2000 Brownfields Cleanup Revolving Loan Fund Pilots

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposal deadlines, revised guidelines.

SUMMARY: The United States Environmental Protection Agency (EPA) will begin to accept proposals for the FY

2000 Brownfields Cleanup Revolving Loan Fund Pilots on November 5, 1999. The Brownfields Cleanup Revolving Loan Fund pilots (each funded up to $500,000) test cleanup and redevelopment planning models, direct special efforts toward removing regulatory barriers without sacrificing protectiveness, and facilitate coordinated environmental cleanup and redevelopment efforts at the federal, state, and local levels. EPA expects to select up to 70 additional Brownfields Cleanup Revolving Loan Fund pilots by May 2000. The deadline for new proposals for the FY 2000 Brownfields Cleanup Revolving Loan Fund pilots is February 7, 2000. Proposals must be postmarked by February 7, 2000, and sent to U.S. EPA Headquarters. In addition, duplicate copies of the proposal must also be submitted to the appropriate U.S. EPA Regional Office, ATTN: Brownfields Cleanup Revolving Loan Fund Coordinator.

The Brownfields Cleanup Revolving Loan Fund pilot proposals are selected on a competitive basis. To ensure a fair selection process, evaluation panels consisting of EPA Regional and Headquarters staff and other federal agency representatives will assess how well the proposals meet the selection criteria outlined in the newly revised guidelines, entitled The Brownfields Economic Redevelopment Initiative: Proposal Guidelines for Brownfields Cleanup Revolving Loan Fund (November 1999).

DATES: All proposals must be postmarked or sent to U.S. EPA Headquarters and a duplicate copy sent to the appropriate U.S. EPA Regional Office via registered or tracked mail no later than February 7, 2000.

ADDRESSES: BCRLF guidelines can be obtained by calling the Superfund Hotline at the following numbers:

Washington, DC Metro Area at 703–412–9810

Outside Washington, DC Metro at 1–800–424–9346

TDD for the Hearing Impaired at 1–800–553–7672

Copies of the Proposal Guidelines for Brownfields Cleanup Revolving Loan Fund are available via the Internet: http://www.epa.gov/brownfields/

FOR FURTHER INFORMATION CONTACT: The U.S. EPA's Office of Solid Waste and Emergency Response, Outreach and Special Projects Staff, Barbara Bassuener (202) 260–9347 or Jennifer Millett Wilbur (202) 260–6454.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency's (EPA) Brownfields Economic Redevelopment Initiative is designed to empower states, local governments, communities, and other stakeholders involved in economic redevelopment to work together in a timely manner to prevent, assess, safely cleanup, and sustainably reuse brownfields. As part of this Initiative, EPA has awarded cooperative agreements to States (including U.S. territories), political subdivisions (including cities, towns, counties), and Indian tribes to capitalize Brownfields Cleanup Revolving Loan Fund pilots. The purpose of these pilots is to test brownfields cleanup revolving loan fund models that direct special efforts toward facilitating coordinated public and private brownfields cleanup efforts at the federal, state, and local levels.

In FY 2000, the EPA expects to select up to 70 new BCRLF pilots to be funded up to $500,000 per eligible entity by the end of May 2000.

Eligible entities for FY 2000 BCRLF pilots, as in previous years, will be entities that have been awarded Brownfields Assessment Demonstration Pilots prior to FY00. In addition, political subdivisions with jurisdiction over sites that have either (1) been the subject of a targeted brownfields assessment (formerly called targeted site assessments), or (2) been selected by the U.S. EPA prior to January 1, 2000, to be the subject of a targeted brownfields assessment, are also eligible for a single BCRLF pilot award. BCRLF pilot proposals do not have to be limited to sites identified, characterized, or assessed under a previously awarded assessment pilot or targeted brownfields assessment.

Proposals from coalitions are permitted to apply, but a single entity must be identified as the applicant. Additionally, a letter of support from each coalition member must be included as an attachment.

Applicants must demonstrate through their proposal: (1) An ability to manage a revolving loan fund and environmental cleanups; (2) a need for cleanup funds; (3) commitment to creative leveraging of EPA funds with public-private partnerships and in-kind services; and (4) a clear plan for sustaining the environmental protection and related economic development activities initiated through the BCRLF program. The eligible entities must meet EPA's threshold and evaluation criteria. There is no guarantee of an award. Also, the size of the awards may vary (for example, from $50,000 to $500,000 per eligible entity), depending on the proposal's responses to the evaluation criteria.

Funding for the Brownfields Cleanup Revolving Loan Fund pilots is authorized under section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA or Superfund), 42 U.S.C. 9604(d)(1).

Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. § 804(2).

Date Signed: October 27, 1999.

Linda Garczynski,

Director, Outreach and Special Projects Staff, Office of Solid Waste and Emergency Response.

[FR Doc. 99–29072 Filed 11–4–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6471–1]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 104; Announcement of Proposal Deadline for the Competition for Fiscal Year 2000 Supplemental Assistance to the National Brownfields Assessment Demonstration Pilots

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposal deadline and guidelines.

SUMMARY: The United States Environmental Protection Agency (EPA) will begin to accept proposals for supplemental assistance for the National Brownfields Assessment Pilots on November 5, 1999. Assessment pilots awarded on or before September 30, 1998, may apply for up to $150,000 for continuance and expansion of their brownfields assessment efforts. This supplemental funding will be awarded on a competitive basis.

In fiscal year 2000, an additional $50,000 may be awarded to an applicant

to assess the contamination of a brownfields site(s) that is or will be used for greenspace purposes. Greenspace purposes may include, but are not limited to, parks, playgrounds, trails, gardens, habitat restoration, open space, and/or greenspace preservation.

EPA expects to select up to 50 National brownfields assessment pilots to receive supplemental assistance by March 2000. The deadline for proposals for the 2000 supplemental assistance is December 22, 1999. Proposals must be post-marked or sent to EPA via registered or tracked mail by the stated deadline.

The supplemental assistance for the National brownfields assessment pilots will be administered on a competitive basis. To ensure a fair selection process, evaluation panels consisting of EPA Regional and Headquarters staff will assess how well the proposals meet the selection criteria outlined in the application booklet The Brownfields Economic Redevelopment Initiative: Proposal Guidelines for Supplemental Assistance for the Brownfields Assessment Demonstration Pilots (October 1999). Applicants are encouraged to contact and, if possible, meet with EPA Regional Brownfields Coordinators.

DATES: All proposals must be post-marked or sent to EPA via registered or tracked mail by December 22, 1999.

ADDRESSES: The proposal guidelines can be obtained by calling the Superfund Hotline at the following numbers:

Washington, DC Metro Area at 703–412–9810
Outside Washington, DC Metro at 1–800–424–9346
TDD for the Hearing Impaired at 1–800–553–7672

Copies of the guidelines are also available via the Internet: http://www.epa.gov/brownfields/

FOR FURTHER INFORMATION CONTACT: The Superfund Hotline, 800–424–9346.

SUPPLEMENTARY INFORMATION: As a part of the Environmental Protection Agency's (EPA) Brownfields Economic Redevelopment Initiative, the Brownfields Assessment Demonstration Pilots are designed to empower States, communities, tribes, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely cleanup and promote the sustainable reuse of brownfields. EPA has awarded cooperative agreements to States, cities, towns, counties and Tribes for demonstration pilots that test brownfields assessment models, direct special efforts toward removing regulatory barriers without sacrificing protectiveness, and facilitate coordinated public and private efforts at the Federal, State, tribal and local levels. To date, the Agency has funded 307 Brownfields Assessment Pilots.

In fiscal year 2000, EPA has determined that brownfields assessment pilots awarded on or before September 30, 1998, may apply for up to $150,000 for continuance and expansion of their brownfields assessment efforts. These pilots focus on EPA's primary mission—protecting human health and the environment. They are also an essential piece of the nation's overall community revitalization efforts. EPA works closely with other federal agencies through the Interagency Working Group on Brownfields, and builds relationships with other stakeholders on the national and local levels to develop coordinated approaches for community revitalization.

Supplemental funding for the brownfields assessment pilots is authorized under Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA or Superfund), 42 U.S.C. 9604(d)(1). States (including U.S. Territories), political subdivisions (including cities, towns, counties), and federally recognized Indian Tribes which received a brownfields assessment pilot grant on or before September 30, 1998, are eligible to apply. EPA welcomes and encourages brownfields projects by coalitions of such entities, but only a single eligible entity may receive a cooperative agreement. Cooperative agreement funds will be awarded only to a state, a political subdivision of a state, or a federally recognized Indian tribe.

Through a brownfields cooperative agreement, EPA provides funds to an eligible state, political subdivision, or Indian Tribe to undertake activities authorized under CERCLA section 104. Use of these supplemental assistance pilot funds must be in accordance with CERCLA, and all CERCLA restrictions on use of funds also apply to the assessment pilots.

The evaluation panels will review the proposals carefully and assess each response based on how well it addresses the selection criteria, briefly outlined below:

Part I (Required)
1. Established Brownfields Program (4 points out of 20)
2. Accomplishments Under Existing Brownfields Assessment Pilot (4 points out of 20)
3. Demonstrated Ability To Administer Existing Brownfields Assessment Demonstration Pilot (4 points out of 20)
4. Work To Be Performed (8 points out of 20)

Part II (Optional)
5. Greenspace
—Authority and Context (2 points out of 8)
—Community Involvement (2 points out of 8)
—Site Identification, Site Assessment Plan, Flow of Ownership, and Reuse Planning (4 points out of 8)

Dated: October 26, 1999.

Linda Garczynski,

Director, Outreach and Special Projects Staff, Office of Solid Waste and Emergency Response.

[FR Doc. 99–29071 Filed 11–4–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00628; FRL–6392–1]

State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committees on Pesticide Operations and Management and Water Quality and Pesticide Disposal; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committees on Pesticide Operations and Management and Water Quality and Pesticide Disposal will hold a 3-day meeting, beginning on November 8, 1999, and ending on November 10, 1999. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The SFIREG Pesticide Operations and Management Working Committee will meet alone on Monday, November 8, 1999, from 8:30 a.m. to 4:30 p.m. The Pesticide Operations and Management and Water Quality and Pesticide Disposal Working Committees will meet jointly on Tuesday, November 9, 1999, from 8:30 a.m. to 12 noon. The Water Quality and Pesticide Disposal Working Committee will meet on Tuesday, November 9, 1999, from 1 p.m. to 5 p.m. and again on Wednesday, November 10, 1999, from 8:30 a.m. to 12 noon.

ADDRESSES: The meeting will be held at The Doubletree Hotel, 300 Army Navy Drive, Arlington-Crystal City, VA.

FOR FURTHER INFORMATION CONTACT: Philip H. Gray, SFIREG Executive Secretary, P. O. Box 1249, Hardwick, VT

05843–1249; telephone number: (802) 472–6956; fax number: (802) 472–6957; e-mail address: aapco@plainfield.bypass.com or Elaine Y. Lyon, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 305–5306; fax number: (703) 308–1850; e-mail address: lyon.elaine@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general, but all parties interested in SFIREG's information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into the EPA's decision-making process are invited and encouraged to attend the meetings and participate as appropriate.

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**-Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. You may also obtain electronic copies of the minutes, and certain other related documents that might be available electronically, from the Association of American Pesticide Control Officials (AAPCO) Internet Home Page at http://aapco.ceris.purdue.edu/doc/index.html. To access this document, on the Home Page select ''SFIREG'' and then look up the entry for this document under the ''SFIREG Meetings.''

2. *In person*. The Agency has established an official record for this action under docket control number OPP–00628. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. Purpose of the Meeting

A. Pesticide Operations Management Working Committee Tentative Agenda

1. Update and discussion of Pesticide Field Data Plan.
2. Cooperative Agreement Grant Funding.
3. Office of Enforcement and Compliance Assurance topics for discussion:
   a. Federal Inspector credentials.
   b. Inspector training.
   c. Inspector manual.
   d. Custom Blend policy.
   e. Worker Protection issues.
4. Outcome of National Endangered Species meeting.
5. Registration and labeling issues on fumigants:
   a. Methyl bromide.
   b. Phosphide REDS.
6. Rodenticide project - ''Rats are Us.''
7. Region 9 Issue Paper on Increased EPA Support for State Lead Agency Laboratory Formulation Work.
8. Working Committee reports.
9. Updates from the Office of Pesticide Programs and the Office of Enforcement and Compliance Assurance.
10. Other topics as appropriate.

B. Pesticide Operations and Management Working Committee and Water Quality and Pesticide Disposal Working Committee Joint Meeting Tentative Agenda

1. Labeling issues:
   a. Status of Label Accountability project.
   b. Consumer Labeling/Disposal Initiative (CLI).
   c. Use directions on labels.
   d. Update on Pesticide Registration Notice on Mandatory v. Advisory Language.
2. Pesticide management plan issues.
3. Status on language for spray drift minimization update and discussion.
4. Conditional Registration update and discussion.
5. Aquatic Pesticide update and discussion.
6. Laboratory Issue Paper: ''State Lab Capabilities for Analysis of New Pesticide Products.''
7. AAPCO Initiative.
   a. State lab needs - present and future.
   b. Support for regulatory programs.
8. National Pollutant Discharge Elimination System update and discussion.
9. Total Maximum Daily Load update and discussion.
10. Active Ingredient Isomers issues.
11. Inert distributions of EPA registered and non registered pesticides.
12. EPA Strategic Plan Workshop update.
13. Updates from the Office of Pesticide Programs and the Office of Enforcement and Compliance Assurance.
14. Other topics as appropriate.

C. Water Quality and Pesticide Disposal Working Committee Tentative Agenda

1. Pesticide Biocumulative Toxins (PBT) National Action Plan for Level One Pesticides.
2. Status of Pesticide Management Plan.
3. California Ground Water Initiative Workshops.
4. EPA Ground Water report to Congress.
5. U.S. Geological Survey reports - ''Distribution of Major Herbicides in Ground Water.''
6. Updates from the Office of Pesticide Programs and Office of Enforcement and Compliance Assurance.
7. Working Committee reports.
8. Other topics as appropriate.

List of Subjects

Environmental protection.

Dated: October 29, 1999.

Anne E. Lindsay,

Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 99–29044 Filed 11–2–99; 4:42 pm]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6470–9]

Regulatory Reinvention (XL) Pilot Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of Elmendorf Project XL Draft Final Project Agreement.

SUMMARY: EPA is today requesting comments on a draft Project XL Final Project Agreement (FPA) for Elmendorf Air Force Base (EAFB). The FPA is a

voluntary agreement developed collaboratively by EAFB, stakeholders, the State of Alaska, and EPA. Project XL, announced in the **Federal Register** on May 23, 1995 (60 FR 27282), gives regulated sources the flexibility to develop alternative strategies that will replace or modify specific regulatory requirements on the condition that they produce greater environmental benefits.

If implemented, the draft FPA would streamline the application, implementation, management, and renewal process for EAFB's Title V permit, through reduced monitoring and record keeping. EAFB estimates that total monitoring, record keeping, reporting, and overall management costs would decrease by about 80 percent, yielding about $1.5 million in savings. These realized cost savings would be directed toward pollution prevention (P2) opportunities. One such P2 project involves installation of a compressed natural gas (CNG) fueling station, the purchase of new CNG vehicles, and the conversion of certain base fleet vehicles to be capable of using CNG as an alternative fuel. EAFB has assembled a list of other feasible P2 opportunities available at the base, along with the estimated costs and environmental benefits of each opportunity. EPA, the State of Alaska, and EAFB have expressed a preference for hazardous air contaminant reduction projects. A supplemental agreement setting forth the specific additional P2 opportunities to be implemented will be developed with the assistance of stakeholders.

DATES: The period for submission of comments ends on November 26, 1999.

ADDRESSES: All comments on the draft Final Project Agreement should be sent to: Dave Bray, Office of Air Quality, OAQ–107, U.S. EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101, or L. Nancy Birnbaum, U.S. EPA, 401 M Street, SW, Room 1025WT (1802), Washington, DC 20460. Comments may also be faxed to Mr. Bray at (206) 553–0110 or Ms. Birnbaum at (202) 401–2474. Comments will also be received via electronic mail sent to: bray.dave@epa.gov or birnbaum.nancy@epa.gov.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the draft Final Project Agreement, contact: Dave Bray, Office of Air Quality, OAQ–107, U.S. EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101, or L. Nancy Birnbaum, U.S. EPA, 401 M Street, SW, Room 1025WT (1802), Washington, DC 20460. The documents are also available via the Internet at the following location: ''http://www.epa.gov/ProjectXL''. In addition, public files on the Project are located at EPA Region 10 in Seattle. Questions to EPA regarding the documents can be directed to Dave Bray at (206) 553–4253 or L. Nancy Birnbaum at (202) 260–2601. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, application information, and descriptions of existing XL projects and proposals, is available via the Internet at ''http://www.epa.gov/ProjectXL''.

Dated: November 1, 1999.

Richard T. Farrell,

Associate Administrator, Office of Reinvention.

[FR Doc. 99–29077 Filed 11–4–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6470–2]

Proposed Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act; In Re: Blackburn and Union Privileges Superfund Site, Walpole, Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Blackburn and Union Privileges Superfund Site, Walpole, Massachusetts. The settlement requires the settling parties, the Kendall Company (a division of Tyco Healthcare Group, LP) and W.R. Grace & Co.—Conn., to reimburse the Environmental Protection Agency (the ''Agency'') for past response costs incurred at the Blackburn and Union Privileges Superfund Site. The settling parties will pay $400,000 plus an additional sum for interest on that amount calculated from March 16, 1999 through the date of the payment. The settlement includes a covenant not to sue the settling parties pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at One Congress Street, Boston, MA 02214.

DATES: Comments must be submitted on or before December 6, 1999.

ADDRESSES: Comments should be addressed to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Mailcode RAA, Boston, Massachusetts 02203, and should refer to: In re: Blackburn and Union Privileges Superfund Site, U.S. EPA Docket No. CERCLA–1–99–0027.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed settlement can be obtained from Peter DeCambre, U.S. Environmental Protection Agency, Region I, One Congress Street, Mailcode SES, Boston, Massachusetts 02214, (617) 918–1890.

Dated: September 29, 1999.

Patricia Meaney,

Director, Office of Site Remediation and Restoration.

[FR Doc. 99–29074 Filed 11–4–99; 8:45 am]

BILLING CODE 6560–50–U

OFFICE OF NATIONAL DRUG CONTROL POLICY

Designation of Three (3) Additional Counties in New Mexico as Part of the New Mexico Partnership/Southwest Border High Intensity Drug Trafficking Area

AGENCY: Office of National Drug Control Policy, Executive Office of the President.

ACTION: Notice.

SUMMARY: This notice lists the counties of Rio Arriba, Santa Fe, and San Juan in New Mexico designated by the Director of National Drug Control Policy, as additions to the New Mexico Partnership/Southwest Border High Intensity Drug Trafficking Area (HIDTA). The New Mexico Partnership currently consists of 10 counties and municipalities New Mexico. HIDTAs are domestic regions identified as having the most critical drug trafficking problems that adversely affect the United States. These new counties are designated pursuant to 21 USC 1706 (b), as amended, to promote more effective coordination of drug control efforts. This action will support local, New Mexico, and federal law enforcement officers in assessing regional drug threats, designing strategies to combat

the threats, developing initiatives to implement the strategies, and evaluation of the effectiveness of these coordinated efforts.

FOR FURTHER INFORMATION CONTACT: Comments and questions regarding this notice should be directed to Mr. Kurt F. Schmid, Acting National HIDTA Director, Office of National Drug Control Policy (ONDCP), Executive Office of the President, Washington, DC 20503; 202–395–6692.

SUPPLEMENTARY INFORMATION: In 1990, the Director of ONDCP designated the first five HIDTAs. These original HIDTAs, areas through which most illegal drugs enter the United States, are the Southwest Border, Houston, Los Angeles, New York/New Jersey, and South Florida. In 1994, the Director designated the Washington/Baltimore HIDTA to address the extensive drug distribution networks serving hardcore drug users and the Puerto Rico/U.S. Virgin Islands HIDTA based upon the significant amount of drugs entering the United States through this region. In 1995, HIDTAs were designated in Atlanta, Chicago, and Philadelphia/Camden to target drug abuse and drug trafficking in those areas. In 1997, the Gulf Coast HIDTA (includes parts of Alabama, Louisiana, and Mississippi), the Lake County HIDTA, the Midwest HIDTA (includes parts of Iowa, Kansas, Missouri, Nebraska, and South Dakota, with the focus on methamphetamine), the Northwest HIDTA (includes seven counties of Washington State), the Rocky Mountain HIDTA (includes parts of Colorado, Utah, and Wyoming), and the San Francisco HIDTA were designated. In 1998, new HIDTAs were designated in Appalachia (includes parts of Kentucky, Tennessee, and West Virginia), Central Florida, Milwaukee, North Texas, and Southeast Michigan. In 1999, new HIDTA's were designated in Central Valley Californina, Hawaii, New England, Ohio and Oregon.

The HIDTA Program supports over 250 co-located joint task forces in twenty regions of the country, including the entire Southwest Border. The HIDTA Program strengthens local, state, and federal drug trafficking and money laundering task forces, bolsters drug enforcement information networks and, improves integration of law enforcement, drug treatment, and drug abuse prevention programs, where appropriate.

Signed October 18, 1999.

Barry R. McCaffrey,

Director.

[FR Doc. 99–28988 Filed 11–4–99; 8:45 am]

BILLING CODE 3180–02–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Submitted to OMB for Review and Approval

October 21, 1999.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before December 6, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0436.

Title: Equipment Authorization-Cordless Telephone Security Coding, 47 CFR Sec.15.121.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 200.

Estimated Time Per Response: 1 hour.

Frequency of Response: On-occasion reporting requirements.

Total Annual Burden: 200 hours.

Total Annual Cost: None.

Needs and Uses: Cordless telephone security features protect the public switched telephone network from unintentional line seizure and telephone dialing. These features prevent unauthorized access to the telephone line, the dialing of calls in response to signals other than those from the owner's handset and the unintentional ringing of a cordless telephone handset. Use of the cordless telephone security features reduces the harm caused by some cordless telephones to the ''911'' Emergency Service Telephone System and the telephone network in general.

OMB Control Number: 3060–0387.

Title: On-Site Verification of Field Disturbance Sensors, 47 CFR Sec.15.201(d) and Sec. 68.200(k).

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 200.

Estimated Time Per Response: 18 hours.

Frequency of Response: Recordkeeping; on-occasion reporting requirements.

Total Annual Burden: 3,600 hours.

Total Annual Cost: $40,000.

Needs and Uses: Commission rules permit the operation of field disturbance sensors in the low VHF region of the spectrum. In order to monitor non-licensed field disturbance sensors operating in the low VHF television bands, a unique procedure for on-site equipment testing of the systems is required to ensure suitable safeguards for the operation of these devices. Data are retained by the holder of the equipment authorizations issued by the Commission and made available only at the request of the Commission.

OMB Control Number: 3060–0564.

Title: Section 76.924, Allocation to Service Cost Categories.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 50.

Estimated Time Per Response: 40 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 2,000 hours.

Total Annual Cost: None.

Needs and Uses: Section 76.924 of the Commission's rules specifies cost accounting and cost allocation requirements for regulated cable operators. Section 76.924 was established as part of the cable rate regulation requirements set forth in the Cable Television Consumer Protection and Competition Act of 1992 (''1992 Cable Act''). This collection accounts for the burden imposed on cable operators to rearrange their accounting records to be in compliance with the requirements set forth in Section 76.924. At this time, that burden should be considered a one-time only recordkeeping requirement for new cable operators. The original requirements set forth in Section 76.924 became effective July 21, 1993. Existing operators are therefore assumed to have already rearranged their accounting records and are in compliance with this recordkeeping requirement. Information derived from accounting records that are arranged in compliance with Section 76.924 is used by the cable operators themselves when completing rate filings and by local franchising authorities when reviewing rate filings.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–29005 Filed 11–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

SUPPLEMENTARY INFORMATION: This collection is in accordance with FEMA's responsibilities under 44 CFR section 206.3 to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage that results from major disasters and emergencies. Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93–288, as amended, FEMA may provide assistance to meet immediate threats to life and property or provide for temporary housing resulting from a major disaster. Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104–193, FEMA determines eligibility for disaster assistance through verification of citizenship or qualified alien status.

Collection of Information:

Title: Disaster Assistance Registration, Applicant Statement/Authorization, Declaration of Applicant.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 3067–0009.

Form Numbers: FEMA Forms 90–69, 90–69A (Spanish version) Disaster Assistance Registration; 90–69B, 90–69C (Spanish version) Applicant Statement/ uthorization; 90–69 D, 90–69 E (Spanish version) Declaration of Applicant. The forms serve as a basic screening and referral document for a number of other Federal and State disaster aid programs by identifying applicant's disaster related needs and, in some cases, determining whether applicants meet the basic eligibility requirements of these other programs.

Abstract: The information serves as the application for FEMA's Disaster Housing Program and the Individual and Family Grant Program and is relayed to other Federal and State agencies administering disaster relief programs appropriate to the applicant's needs. Without this information, eligibility for disaster assistance cannot be determined. The information is obtained by telephone calls to the Teleregistration Center or from a face-to-face interview. Applicants are provided a statement regarding the Privacy Act and they sign a statement certifying the accuracy of their information. They also sign a statement reflecting their United States citizenship or qualified alien status.

Affected Public: The forms are used only in Presidentially declared major disasters or emergencies to allow individuals, farmers, small business owners, private non-profit organizations to apply for Federal disaster assistance and to be referred to other appropriate State and local agencies.

Estimated Total Annual Burden Hours:

FEMA Forms	Number of respondents	Frequency of response	Hours per response	Annual burden hours (rounded)
90–69, 90–69A, 90–69B, 90–69C ..	460,900	1 time	Avg. 21 minutes or .35 minutes	161,315
90–69D, 90–69E	294,976	1 time	2 minutes or .033 minutes	*9,833
Total	.....	.....	.....	171,148

*Rounded up.

Estimated Cost: All costs are part of customary and usual business practices.

Comments: Interested persons are invited to submit written comments on the proposed collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, ATTN: Desk Officer for FEMA, 725 17th Street, NW, Room 10102, Washington, DC 20503. Comments should be submitted by December 6, 1999.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625, FAX number (202) 646–3524, e-mail: muriel.anderson@fema.gov.

Dated: October 29, 1999.

Muriel B. Anderson,

Acting Director, Program Services Division, Operations Support Directorate.

[FR Doc. 99–29030 Filed 11–4–99; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1304–DR]

Arizona; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Arizona (FEMA–1304–DR), dated October 15, 1999, and related determinations.

EFFECTIVE DATE: October 15, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 15, 1999, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Arizona, resulting from severe storms, flooding and high winds on September 14–23, 1999, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Arizona.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Public Assistance is later warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Michael Lowder of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Arizona to have been affected adversely by this declared major disaster:

Maricopa County for Individual Assistance.

All counties within the State of Arizona are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–29033 Filed 11–4–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1302–DR]

Connecticut; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Connecticut (FEMA–1302–DR), dated September 23, 1999, and related determinations.

EFFECTIVE DATE: October 25, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Connecticut is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 23, 1999:

Litchfield County for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Patricia Stahlschmidt,

Division Director, Response and Recovery Directorate.

[FR Doc. 99–29032 Filed 11–4–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1306–DR]

Florida; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–1306–DR), dated October 20, 1999, and related determinations.

EFFECTIVE DATE: October 22, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida is hereby amended to include the Public Assistance program among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 20, 1999:

Brevard, Broward, Dade, Indian River, Martin, Monroe, Okeechobee, Palm Beach, and St. Lucie for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing

Program; 83.548, Hazard Mitigation Grant Program.)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 99–29034 Filed 11–4–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1306–DR]

Florida; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–1306–DR), dated October 20, 1999, and related determinations.

EFFECTIVE DATE: October 28, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 20, 1999:

Flagler County for Public Assistance.

Volusia County for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Assoiate Director, Response and Recovery Directorate.

[FR Doc. 99–29035 Filed 11–4–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1296–DR]

New York; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York, (FEMA–1296–DR), dated September 19, 1999, and related determinations.

EFFECTIVE DATE: October 28, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New York is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 19, 1999:

The counties of Suffolk and Nassau for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 99–29031 Filed 11–4–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL HOUSING FINANCE BOARD

[99–N–16]

Pilot Mortgage Program Proposed by the Federal Home Loan Banks of Cincinnati, Indianapolis and Seattle

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: On October 4, 1999, the Federal Housing Finance Board (Finance Board) adopted Finance Board Resolution No. 99–50 (Res. 99–50) authorizing Federal Home Loan Banks (FHLBanks) to offer single-family Member Mortgage Asset (MMA) programs within certain defined parameters, terms and conditions, including the Mortgage Purchase Program (MPP) proposal that was jointly submitted to the Finance Board by the FHLBanks of Cincinnati, Indianapolis and Seattle. Notice of the proposed MPP program was published in the **Federal Register** on August 12, 1999, 64 FR 44016, and the application was subsequently made available to the public through the Finance Board's website, 64 FR 49187 (September 10, 1999). While it is not obligated to provide further notice of the MPP program before it is implemented, the Finance Board hereby provides notice that the MPP program will not be implemented by the FHLBanks of Cincinnati, Indianapolis or Seattle until the staff of the Office of Supervision has conducted a pre-implementation examination of each FHLBank and has confirmed that appropriate program policies, procedures and controls have been established at each FHLBank. In no case shall implementation occur prior to 30-days from the date of this notice.

DATES: Comments must be received in writing on or before December 6, 1999.

ADDRESSES: Individuals wishing to submit comments should provide written comments by mail to: Elaine L. Baker, Secretary to the Board, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006. Comments will be available for public inspection at this address.

BACKGROUND: The FHLBanks of Cincinnati, Indianapolis and Seattle jointly submitted to the Finance Board a proposal to initiate a pilot program to purchase fixed-rate, single-family mortgages from member financial institutions subject to the establishment of a first loss account through which the member financial institution bears responsibility for losses up to the amount of expected losses on the mortgages or mortgage pools. The member would provide additional loss coverage through supplemental loan-level mortgage insurance from a mortgage insurer rated not lower than double-A.

Res. 99–50 authorized the FHLBanks to establish and operate MMA programs, a generic designation for programs that efficiently allocate mortgage risks so as to best use the core competencies of the entities involved, provide appropriate capital treatment to the participating financial institution members, and provide capital market funding and risk management alternatives, all for the ultimate benefit of consumers. MPP, as

proposed, conforms to the provisions of Res. 99–50 and the FHLBanks of Cincinnati, Indianapolis and Seattle were thereby authorized to establish and operate MPP as a program, pursuant to the provisions, terms and conditions of Res. 99–50.

The terms and conditions of Res. 99–50 require, among other things, that Finance Board staff determinations regarding a FHLBank's request to operate a single-family MMA program shall be subject to a pre-implementation safety and soundness examination. Therefore, the MPP program will not be implemented by the FHLBanks of Cincinnati, Indianapolis or Seattle until the completion of a pre-implementation examination, and in no case shall implementation occur prior to the end of the 30-day notice period provided hereby. This notice applies only to MPP and not to previously authorized and currently operating MMA programs that have already undergone pre-implementation and other safety and soundness examinations. Comments on the concept of MMA may be submitted to the Finance Board on or before December 27, 1999 in the context of the Finance Board's ongoing Financial Management and Mission Achievement rulemaking proposal, 64 FR 52163 (September 27, 1999). In this regard, the Finance Board is making Res. 99–50 available through its website (http://www.fhfb.gov) in the ''What's New'' section

FOR FURTHER INFORMATION CONTACT: Christina K. Muradian, Senior Financial Analyst, Office of Policy, Research and Analysis (202) 408–2584, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC.

Bruce A. Morrison,

Chairman.

[FR Doc. 99–29027 Filed 11–4–99; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 64 FR 59177

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 A.M.—November 9, 1999.

CHANGE IN THE MEETING:

Removal of item in the OPEN portion of the meeting.

Item 1—Docket No. 99–10—Ocean Common Carriers Subject to the Shipping Act of 1984. The Federal Maritime Commission has withdrawn this item to allow it additional time to analyze the issues raised.

CONTACT PERSON FOR MORE INFORMATION: Bryant L. VanBrakle, Secretary, (202) 523–5725.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–29197 Filed 11–3–99; 2:39 pm]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 29, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Coastal Banking Company, Inc., Beaufort, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Lowcountry National Bank (in organization), Beaufort, South Carolina.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Bob S. Prince Insurance Agency, Inc., McLeansboro, Illinois; to become a bank holding company by acquiring 7.12 percent of the voting shares of Market Street Bancshares, Inc., Mount Vernon, Illinois, and The Peoples National Bank of McLeansboro, McLeansboro, Illinois.

In connection with this application, Applicant also has applied to engage in insurance activities in a town with a population not exceeding 5,000, pursuant to § 225.28(b)(11)(iii) of Regulation Y.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Ruff Partners, Ltd., Longview, Texas; to become a bank holding company by acquiring 44.89 percent of the voting shares of The First State Bank of Hallsville, Hallsville, Texas.

Board of Governors of the Federal Reserve System, November 1, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–28969 Filed 11–4–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, November 10, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: November 3, 1999

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–29139 Filed 11–3–99; 11:44 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICE

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Project:

Title: Head Start Grant Application and Budget Instrument.

OMB No.: 0970–0207.

Description: The Head Start program is promulgating a Head Start Grant Application and Budget Instrument to standardize the grant application information which is requested from all grantees applying for continuation grants. The Bureau is also instituting a three-year grant funding cycle so that applicants will only submit full applications in their first year of their three-year funding cycle. In addition, the Grant Application and Budget Instrument will be available on a data disk and can be transmitted electronically to Regional Offices. The Administration on Children, Youth and Families believes that, in promulgating this application document, the process of applying for grants for the Head Start program will be more efficient for the applicants.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Head Start GABI	1513	1	33	49,929

Estimated Total Annual Burden Hours: 49,929.

In Compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: November 1, 1999.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 99–29021 Filed 11–4–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–0276]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Request: Extension of a currently approved collection; *Title of Information Collection:* Feedback Postcard; *HCFA Form Number:* HCFA–R–0276 (OMB approval #: 0938–0766); *Use:* The purpose of this collection is post-distribution testing. This feedback postcard will be printed with Medicare & You 2000. This is the primary vehicle for presenting Medicare information to beneficiaries. Each household with up to 4 Medicare beneficiaries will receive one book. Households with over 4 beneficiaries will have one book sent to each beneficiary. (It is assumed these may be nursing homes/care facilities.) The beneficiaries have the option of completing the postcard, which will provide HCFA with valuable information that will assist in improving future versions of the publication.; *Frequency:* On occasion and Annually; *Affected Public:* Individuals or Households; *Number of Respondents:* 16,834,000 (estimate); *Total Annual Responses:* 510,000 (3% estimate); *Total Annual Burden Hours:* 25,500.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed

within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: October 12, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–29026 Filed 11–4–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel.

Date: December 2, 1999.

Time: 2:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: 9000 Rockville Pike, Bldg 31, Room 5B50, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Eugene G. Hayunga, Scientific Review Administrator, National Institutes of Health, NCCAM, Building 31, Room 5B50, 9000 Rockville Pike, Bethesda, MD 20892, 301–594–2014, hayungae@ad.nih.gov.

Dated: November 1, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28995 Filed 11–4–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, NIAMS, November 8, 1999, 8:00 a.m. to November 8, 1999, 5:00 p.m., National Institutes of Health, 9000 Rockville Pike, Building 31; Room 4C32, NIAMS Conference Room, Bethesda, Maryland 20892 which was published in the **Federal Register** on October 28, 1999, 64 FR 58076.

The meeting that was advertised as November 8, 1999 will now begin on November 7, 1999 at 6:30 p.m. at the Bethesda Marriott, Bethesda, Maryland. The second day of the meeting remains in the original location and at the same time. The meeting is closed to the public.

Dated: November 1, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28994 Filed 11–4–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Dental and Craniofacial Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Dental & Craniofacial Research, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Dental and Craniofacial Research Craniofacial Dev. Biology & Regeneration Br., Craniofacial Epi. & Genetics Br. and Gene Therapy & Therapeutics Br.

Date: December 2–3, 1999.

Closed: December 2, 1999, 8:30 am to 9:00 am.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, National Institute of Dental & Craniofacial Res., Building 30, Conference 117, Bethesda, MD 20892.

Open: December 2, 1999, 9:00 am to 11:45 am.

Agenda: Oral Presentations of laboratories.

Place: National Institutes of Health, National Institute of Dental & Craniofacial Res., Building 30, Conference 117, Bethesda, MD 20892.

Closed: December 2, 1999, 11:45 am to 6:00 pm.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, National Institute of Dental & Craniofacial Res., Building 30, Conference 117, Bethesda, MD 20892.

Open: December 3, 1999, 8:30 am to 11:45 am.

Agenda: Oral Presentations of Laboratories.

Place: National Institutes of Health, National Institute of Dental & Craniofacial Res., Building 30, Conference 117, Bethesda, MD 20892.

Contact Person: Wendy A. Liffers, Director, Office of Science Policy & Analysis, National Institute of Dental & Craniofacial Res., 31 Center Drive, Rm. 5B55, Bethesda, MD 20892–2190.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: October 29, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28996 Filed 11–4–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice

is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning invididuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; ZDK1 GRB B(C1).

Date: November 16, 1999.

Time: 12:00 pm to 1:00 pm.

Agenda: To review and evaluate contract proposals.

Place: Natcher Building, 45 Center Drive, Room 6AS.25S, Bethesda, Maryland, MD 20892, (Telephone Conference Call).

Contact Person: Ned Feder, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building Room 6AS25s, National Institutes of Health, Bethesda, MD 20892, (301) 594–8890.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; ZDK1 GRB 4 J2.

Date: December 1–2, 1999.

Time: 7:30 pm to 6:00 pm.

Agenda: To review and evaluate grant applications.

Place: Hobby Drury Inn, 7902 Mosley Road, Houston TX 77061.

Contact Person: William E. Elzinga, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building Room 6AS25E, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8895.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; ZDK1 GRB 1 (J2).

Date: December 9–10, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22203.

Contact Person: Carolyn Miles, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–43A, National Institutes of Health, Bethesda, MD 20892, (301) 594–7791.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; ZDK1 GRB–2 J3P.

Date: December 15–17, 1999.

Time: 7:00 pm to 12:00 pm.

Agenda: To review and evaluate grant applications.

Place: Houston Marriott Medical Center, 6580 Fannin Street, Houston, TX 77030.

Contact Person: Shan S. Wong, Scientific Review Administrator, Review Branch, DEA NIDDK, Natcher Building Room 6AS43H, National Institutes of Health, Bethesda, MD 20892, (301) 594–7797.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: October 29, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28997 Filed 11–4–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National institute of Nursing Research Special Emphasis Panel.

Date: November 9, 1999.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Building 45, Room 3AN–18B, MD 20892, (Telephone Conference Call).

Contact Person: Mary J. Stephens-Frazier, Phd, Scientific Review Administrator, National Institute of Nursing Research, National Institutes of Health, Natcher Building, Room 3AN32, Bethesda, MD 20892, (301) 594–5971.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: October 29, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28999 Filed 11–4–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, November 15, 1999, 8:00 AM to November 16, 1999, 6:00 PM, Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD, 20814 which was published in the **Federal Register** on October 28, 1999, 64FR58079.

The meeting will be held from 8:30 AM to 5:00 PM. The dates and location remain the same. The meeting is closed to the public.

Dated: October 29, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28998 Filed 11–4–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4432–N–44]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: November 5, 1999.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the

purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: October 28, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 99–28692 Filed 11–4–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of the Reassessment of the Interim Wolf Control Plan for the Northern Rocky Mountains

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: We, the Fish and Wildlife Service, announce the availability of the Reassessment of the Interim Wolf Control Plan for the Northern Rocky Mountains, which includes northwestern Montana and the Panhandle of northern Idaho (Exclusive of the Experimental Population Area). Our 1988 Interim Wolf Control Plan (Control Plan) was developed in response to a recommendation in the 1987 Northern Rocky Mountain Wolf Recovery Plan (Recovery Plan) to conserve and enhance survival and propagation of the gray wolf, and is implemented under an Endangered Species Act section 10 permit. The Control Plan has been carried out for 11 years to control problem wolves.

A notice of availability of the draft reassessment was published in the **Federal Register**, Volume 63, Number 78, on April 23, 1998, soliciting review and comments from the public for 30 days. Based on the review and the comments received, we have modified the Control Plan to include changes in the following areas—(1) Management zones; (2) encouraging research in deterring wolf depredations on livestock; (3) recordkeeping and analysis; (4) non-lethal control techniques and; (5) monitoring of the wolf population in northwestern Montana. The Control Plan also was amended to include the need to control wolves that kill pets and an increased educational effort about wolf recovery and management in northwestern Montana.

ADDRESSES: Persons wishing to obtain a copy of the Reassessment and the Modified Interim Wolf Control Plan may do so by contacting the Wolf Recovery Coordinator, U.S. Fish and Wildlife Service, 100 North Park, Suite 320, Helena, Montana 59604, or by accessing the website. The Control Plan and the Reassessment can be retrieved from the Service's Region 6 website at <www.r6.fws.gov/wolf>. The complete administrative record of this action is on file at the above address and is available for inspection, by appointment, during normal business hours.

FOR FURTHER INFORMATION CONTACT: Ed Bangs, Wolf Recovery Coordinator (see **ADDRESSES** above), or at telephone (406) 449–5225, extension 204, or e-mail <rockymtwolf@fws.gov>.

SUPPLEMENTARY INFORMATION:

Background

The primary goal of our endangered species program is to restore an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem. Recovery Plans describe actions considered necessary for conservation of the species, establish criteria for recovery levels for downlisting or delisting the species, and estimate time and cost for implementing the recovery measures identified.

Under provisions of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), the northern Rocky Mountains wolf population was listed as endangered, and we approved the Wolf Recovery Plan for the Northern Rocky Mountains (Recovery Plan) in 1987. The Recovery Plan recognized that, where ranges of wolves and livestock overlap, some livestock would be killed by wolves. In order to address this issue, the Recovery Plan identified the need ''to delineate recovery areas and identify and develop conservation strategies and management plan(s) to ensure perpetuation of the Northern Rocky Mountain wolf.'' To respond to this need, a task was included to develop and implement a wolf control/contingency plan for dealing with wolf depredations. An Interim Wolf Control Plan for Montana and Wyoming (Control Plan) was approved by the Service's Regional Director on August 5, 1988. The Control Plan included criteria for determining problem wolves, criteria for their disposition, and protocols and techniques for control actions.

We conduct control of problem wolves through our section 10 permit authority. Under section 10(a)(1)(A) of the Act, ''The Secretary (of the Interior) may permit, under such terms and conditions as he may prescribe—(A) any act otherwise prohibited by section 9 for scientific purposes or to enhance the propagation or survival of the affected species.''

The Control Plan has been carried out for 11 years to control problem wolves. On February 27, 1998, a draft evaluation of the Control Plan was completed to see if it was achieving its goal of helping recovery of the Northern Rocky Mountain endangered wolf population. The evaluation looked at—(1) the effectiveness of the program in facilitating wolf recovery, (2) effectiveness of the guidelines for determining problem wolves, conducting wolf control actions and the disposition of problem wolves, (3) the analysis, accuracy, consistency and value of the reporting and recording of actions for the record, and (4) recommendations for the wolf control program.

A recommendation in the draft reassessment was to subject the review to a wider and more professional scrutiny by publishing a notice of availability in the **Federal Register**, and sending it to experts experienced in managing wolf/livestock conflicts. A notice of availability was published in the **Federal Register**, Volume 63, Number 78, on April 23, 1998, soliciting review and comments from the public for 30 days. Copies of the notice were sent to congressional delegates and the Governors in Montana, Idaho, and Wyoming. Copies were sent to U.S. Department of Agriculture Wildlife Services State directors and their Regional Office. All cooperators were made aware of the notice of availability through the gray wolf weekly report mailing list and postings on several Internet websites.

We received 25 written and 1 verbal response to the draft reassessment. Comments were reviewed and 22 relevant issues regarding the Control Plan were categorized and addressed. The categories, number of comments, and responses to relevant issues are listed in the final version of the Reassessment. After careful review and analysis of comments received, and the evaluation of the Control Plan, some of the recommendations in the draft reassessment were modified and several additional recommendations have been added to the Modified Interim Control Plan. We have modified the Control Plan for the Northern Rocky Mountains to include changes in the following areas—(1) management zones; (2) encouraging research in deterring wolf depredations on livestock; (3) recordkeeping and analysis; (4) non-lethal control techniques and; (5) monitoring of the wolf population in northwestern Montana. The Control Plan also was amended to include the need to control wolves that kill pets and a recommendation to increase

educational efforts about wolf recovery and management in northwestern Montana.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: October 28, 1999.

Terry Terrell,

Deputy Regional Director, Denver, Colorado.

[FR Doc. 99–29001 Filed 11–4–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Three Public Open Houses Prior to Proposing a Revision to the Special Rule for a Nonessential Experimental Population of Red Wolves in North Carolina

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public open houses.

SUMMARY: We, the Fish and Wildlife Service, announce three public open houses in eastern North Carolina to present information to, and answer questions from the public prior to proposing a change to the special rule for the nonessential experimental population (NEP) of red wolves in eastern North Carolina under section 10(j) of the Endangered Species Act of 1973, as amended (Act).

DATES AND ADDRESSES: We will hold the first open house on Tuesday, November 16, 1999, at the Mattamuskeet Lodge, Mattamuskeet National Wildlife Refuge, 1 Mattamuskeet Refuge Road, Swan Quarter, North Carolina 27885, from 4:30 pm to 7:30 pm. The second open house will be on Wednesday, November 17, 1999, at the Vernon James Research & Extension Conference Center, 207 Research Station Road, Plymouth, North Carolina 27962, from 4:30 pm to 7:30 pm. The third open house will be on Thursday, November 18, 1999, at Tyrrell Hall, 108 South Water Street, Columbia, North Carolina 27925, from 4:30 pm to 7:30 pm.

FOR FURTHER INFORMATION CONTACT: Mr. Brian T. Kelly, Wildlife Biologist/Field Projects Coordinator, U.S. Fish and Wildlife Service, P.O. Box 1969, 708 North Highway 64/264, Manteo, North Carolina 27954 (telephone 252/473–1131, extension 27).

SUPPLEMENTARY INFORMATION:

Background

The red wolf is an endangered species that is currently found in the wild only as a NEP in northeastern North Carolina on the Alligator River, Pocosin Lakes, and Mattamuskeet National Wildlife Refuges; the U.S. Air Force's Dare County Bombing Range; and adjacent private land in Beaufort, Dare, Hyde, Tyrrell, and Washington Counties, North Carolina; and as an endangered species in three small island propagation projects located on Bulls Island in South Carolina and Cape St. George and St. Vincent Islands in Florida. These four carefully managed wild populations contained a minimum of 48 animals as of September 30, 1999. The remaining red wolves are located in 33 captive-breeding facilities in the United States. The captive population numbered 161 animals as of September 30, 1999.

We published a proposed rule in the **Federal Register** of July 24, 1986 (51 FR 26564), to introduce red wolves into Alligator River, Dare County, North Carolina. We published a final rule on November 19, 1986 (51 FR 41790), making a determination to implement the proposed action with some modifications. We determined that the red wolf population in Dare County and adjacent Hyde, Tyrrell, and Washington Counties would be a NEP, according to Section 10(j) of the Act. We revised the rule in the **Federal Register** of November 4, 1991 (56 FR 56325), to add Beaufort County to the list of counties where the NEP designation would apply. We reevaluated the status of the population after 5 years and included input from public meetings in this reevaluation.

We published a proposed rule in the **Federal Register** of November 24, 1993 (58 FR 62086), to revise the special rule for NEPs of red wolves in North Carolina and Tennessee. We published a final rule in the **Federal Register** of April 13, 1995 (60 FR 18940), making a determination to implement the proposed action with some modifications.

We will hold three public open houses in eastern North Carolina. Through these open houses, we will provide the public with a forum to obtain information and ask questions of us before we request their formal comment through the rulemaking process.

Author

The primary author of this notice is Brian T. Kelly (see **FOR FURTHER INFORMATION CONTACT** section).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

Dated: October 29, 1999.

H. Dale Hall,

Acting Regional Director.

[FR Doc. 99–29000 Filed 11–4–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–090–00–2822–JL–N843; GP0–0024]

Closure of Public Lands in Lane County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Closure of public lands and access road in Lane County, Oregon.

SUMMARY: Notice is hereby given that certain public lands and access road in Lane County, Oregon are indefinitely closed to all public use, including vehicle operation, recreation, hunting, parking, camping, shooting, hiking and sightseeing. The closure is made under the authority of 43 CFR 8364.1.

The public lands affected by this closure are located within the Austa Fire Unit and are specifically identified as follows:

Willamette Meridian, Oregon

T. 18 S., R. 8 W.
Sec. 9: All lands south of the north right-of-way line of the Bonneville Power Administration Transmission line
Sec. 10: BLM Road No. 18–8–10 in the S½S½
Sec.15: N½NW¼, SW¼NW¼
Containing approximately 450 acres.

SUPPLEMENTARY INFORMATION: The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: Bureau of Land Management (BLM) and Bonneville Power Administration (BPA) employees; BLM and BPA contractors and their subcontractors; State of Oregon, local and other federal government employees; State of Oregon, local and other federal contractors and their subcontractors; the holders of BLM road use permits that include roads within the closure area; purchasers of BLM resources within the closure area and their employees and subcontractors. Access by additional parties may be allowed, but must be approved in advance in writing by the Authorized Officer.

Any person who fails to comply with the provisions of this closure order may be subject to, but not limited to, the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000 and/or imprisonment not to

exceed 12 months, as well as the penalties provided under Oregon State law.

The public lands closed to public use under this order will be posted with signs at points of public access.

The purpose of this closure is to protect persons from injury incurred by falling or moving debris and/or conditions which create potential for slips and falls, especially on steep slopes. The recent Austa Fire created extreme hazards. Dead and dying trees were left on unstable, vegetationless ground. Unstable objects are numerous throughout the unit. Weather conditions such as rain and wind will escalate the likelihood that objects will break loose and roll down hill and dead trees will fall unexpectedly. These hazardous conditions are expected to remain for several years as this fire occurred in Late Successional Reserve (LSR) lands which are reserved from intense management practices. Lane County has already closed a segment of its county road (#4386), Stagecoach Road, at the bottom of this unit due to debris falling and rolling onto the road. A gate will be installed on BLM Road No. 18–8–10.

DATES: This closure is effective from November 1, 1999 and will continue until further notice.

ADDRESSES: Copies of this closure notice and maps showing the location of the closed lands are available from the Eugene District Office, P.O. Box 10226 (2890 Chad Drive), Eugene, Oregon 97440.

FOR FURTHER INFORMATION CONTACT: Diane Chung, Coast Range Field Manager, Eugene District Office, at (541) 683–6600 or 1–888–442–3061.

Dated: November 1, 1999.

Dan Howells,

Acting Field Manager, Coast Range Resource Area.

[FR Doc. 99–29002 Filed 11–4–99; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan, Draft Environmental Impact Statement, Chiricahua National Monument, Arizona

AGENCY: National Park Service, Department of the Interior.

ACTION: Availability of Draft Environmental Impact Statement and General Management Plan for Chiricahua National Monument.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of a Draft Environmental Impact Statement and General Management Plan (DEIS/GMP) for Chiricahua National Monument, Arizona.

DATES: The DEIS/GMP will remain available for public review through January 30, 2000. If any public meetings are held concerning the DEIS/GMP, they will be announced at a later date.

ADDRESSES: Comments on the DEIS/GMP should be sent to the Superintendent, Chiricahua National Monument, Dos Cabezas Route, Box 6500, Willcox, Arizona 85643–9737. Public reading copies of the DEIS/GMP will be available for review at the following locations:

Office of the Superintendent, Chiricahua NM, Dos Cabezas Route, Box 6500, Willcox, Arizona 85643–9737, telephone: (520) 824–3560

Planning and Environmental Quality, Intermountain Support Office—Denver, National Park Service, P.O. Box 25287, Denver, CO 80225–0287, Telephone: (303) 969–2851 or (303) 969–2377

Office of Public Affairs, National Park Service, Department of Interior, 18th and C Streets NW, Washington, D.C. 20240, Telephone: (202) 208–6843

SUPPLEMENTARY INFORMATION: The DEIS/GMP analyzes 3 alternatives to identify and assess the various management alternatives and related environmental impacts relative to park operations, visitor use and access, natural and cultural management, and general development at the monument. The General Management Plan would guide the management of the Chiricahua National Monument for the next 12 to 15 years.

Alternative A, The National Park Service proposal, identified as one of the alternatives, would retain most existing visitor experiences and would construct a new headquarters/visitor orientation/administrative area just outside park boundaries.

Alternative B provides for a traditional park experience with increased personal services and a small number of facility enhancements.

The No-Action Alternative would maintain visitor services and resource protection at current limited levels throughout the life of the plan.

The DEIS/GMP in particular evaluates the environmental consequences of the proposed action and the other alternatives on visitor experience, cultural resources, long-term health of natural ecosystems, economic contribution to gateway communities, adjacent landowners, and operational efficiency.

FOR FURTHER INFORMATION CONTACT: Contact Superintendent, Chiricahua National Monument, at the above address and telephone number.

Dated: October 27, 1999.

Michael D. Snyder,

Director, Intermountain Region, National Park Service.

[FR Doc. 99–28974 Filed 11–4–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Winter Use Plan, Draft Environmental Impact Statement for the Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr., Memorial Parkway, Wyoming

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of extension of time for review of draft environmental impact statement (DEIS).

SUMMARY: The National Park Service is extending the public review period to December 1, 1999 for the DEIS for the Winter Use Plan for Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr., Memorial Parkway, Wyoming. The notice of availability for the DEIS was published in the **Federal Register** on October 1, 1999 (64 FR 53379). The public review period was originally to end on November 15, 1999.

DATES: Pulic comments on the DEIS should be submitted on or before December 1, 1999. There will be hearings on the DEIS. The hearing dates and locations are:

- October 14, 1999, from 3 p.m. to 9 p.m., in the Teton and Yellowstone Rooms, at the Cavanaughs on the Falls, 475 River Parkway, Idaho Falls, Idaho.
- October 21, 1999, from 3 p.m. to 9 p.m., in the Multi-purpose Room at the West Yellowstone School, 500 Delacy Avenue (Entrance on N. Geyser Street), West Yellowstone, Montana.
- October 23, 1999, from 9 a.m. to 3 p.m., at the City/County Complex, 414 E. Callendar, Livingston, Montana.
- October 26, 1999, from 3 p.m. to 9 p.m., in the Cody Auditorium, 1240 Beck Avenue, Cody, Wyoming.
- October 28, 1999, from 3 p.m. to 9 p.m., at the Teton County Library Auditorium, 125 Virginian Lane, Jackson, Wyoming.
- November 3, 1999, from 3 p.m. to 9 p.m., at the Four Points Denver West Hotel, 137 Union Boulevard, Lakewood, Colorado.

ADDRESSES: Comments on the Winter Use Plan, Draft Environmental Impact Statement for the Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr., Memorial Parkway should be sent to Clifford Hawkes, National Park Service, Denver Service Center, 12795 West Alameda Parkway, Lakewood, Colorado 80228. Public reading copies of the plan are available on the Internet (nps.gov/planning/yell/winteruse) and will be available for review at the following locations:

Office of the Superintendent, National Park Service, P.O. Box 168, Yellowstone National Park, Wyoming 82190, Telephone: (307) 344–2002

Office of the Superintendent, National Park Service, P.O. Drawer 170, Moose, Wyoming 83012, Telephone: (307) 739–3410

Clifford Hawkes, National Park Service, Denver Service Center, 12795 W. Alameda Parkway, Lakewood, Colorado 80228, Telephone: (303) 969–2262

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets NW, Washington, DC 20240, Telephone: (202) 208–6843

FOR FURTHER INFORMATION CONTACT: Clifford Hawkes, National Park Service, Denver Service Center 12795 West Alameda Parkway, Lakewood, Colorado 80228.

Dated: October 28, 1999.

Clifford L. Hawks,

Job Captain, Denver Service Center, National Park Service.

[FR Doc. 99–28972 Filed 11–4–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Selma to Montgomery National Historic Trail Advisory Council; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92–463, that a meeting of the Selma to Montgomery National Historic Trail Advisory Council will be held December 6, 1999 at 9:00 a.m. until 4:00 p.m., at the town hall in Whitehall, Alabama.

The Selma to Montgomery National Historic Trail Advisory Council was established pursuant to Public Law 100–192 establishing the Selma to Montgomery National Historic Trail. This law was put in place to advise the National Park Service on such issues as preservation of trail routes and features, public use, standards for posting and maintaining trail markers, and administrative matters.

The matters to be discussed include:

A. Review comments and make recommendations for preferred alternative.

B. Update on status of Cultural Resource Inventory.

C. Update on Scenic Byway Application.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and persons will be accommodated on first come, first serve basis. Any member of the public may file a written statement concerning the matters to be discussed with Lee Edwards, Trial Superintendent.

Person wishing further information concerning this meeting, or who wish to submit written statements may contact Lee Edwards, Trail Superintendent, Selma to Montgomery National Historic Trail, P.O. Box 5690, Montgomery, Al 36103, telephone 334–353–3744 or 334–727–6390.

Lee Edwards,

Trail Superintendent.

[FR Doc. 99–28970 Filed 11–4–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Ocmulgee Old Fields Historic District; Determination of Eligibility for the National Register of Historic Places

ACTION: Request for comments.

On August 14, 1997, the National Register of Historic Places determined that the Ocmulgee Old Fields Historic District, near Macon, in Bibb County, Georgia, was eligible for listing in the National Register of Historic Places. The district was determined to meet National Register Criterion A (associated with important events) in the area of Ethnic Heritage: Native American, because of the cultural and historical significance of this area to the Muscogean peoples who were forced to abandon it in the early 19th century and who still revere it as their ancestral homeland. The district also was determined to meet National Register Criterion D (likely to yield important information), because it has provided and can be expected to continue to provide important information on the long history of the Macon Plateau and the Ocmulgee River valley. The finding of eligibility was based on a request from the Advisory Council on Historic Preservation and included a review of extensive documentation submitted by the Advisory Council, the Federal Highway Administration, the Georgia Department of Natural Resources, representatives of a number of Muscogean Indian tribes, and other interested parties. A copy of the determination of eligibility is available from the National Register of Historic Places, National Park Service, 1849 C Street, NW, Room NC400, Washington, DC 20240.

To establish precise boundaries for the eligible district, the Keeper requested additional documentation. On July 23, 1999, the National Register completed the determination of eligibility for this property based on additional material provided by the Federal Highway Administration, Indian tribal representatives, and others. Boundaries were established based on the extent of the historically significant area that still retains the imprint of traditional Muscogean culture, excluding those areas which have lost their ability to testify to their cultural or archeological significance because of non-historic residential, commercial, or industrial development. A copy of the determination and a map showing the boundaries are also available from the National Register of Historic Places.

Since the determination of eligibility was made, the Keeper of the National Register has received written comments from a property owner within the boundary of the determined eligible area and from other interested parties questioning the boundaries established for the district. In order to accommodate those who wish to provide new information to define the scope of the area that meets the National Register Criteria for Evaluation, the National Park Service is providing a 60-day comment period on this issue. The National Register Criteria for Evaluation are set forth below.

Anyone wishing to submit additional information bearing on the scope of the area of the Ocmulgee Old Fields Historic District that meets the National Register Criteria for Evaluation should do so within 60 days of the date of this notice. A written statement on the determination of eligibility will be issued by the National Park Service within 30 days of the close of the comment period.

The determination of eligibility remains in effect pending review of responses submitted during the comment period. In order to revise the boundary the National Park Service must receive authoritative information, which, evaluated in conjunction with documentation already on file, results in a finding that the boundary for the determined eligible district does not

accurately delineate the scope of the district in accordance with established National Register standards.

Comments should be addressed to the National Register of Historic Places, National Park Service, 1849 C Street, NW, Room NC400, Washington, DC 20240.

Carol D. Shull,

Keeper of the National Register of Historic Places, National Register, History and Education.

National Register Criteria for Evaluation

The National Register criteria define, for the nation as a whole, the scope and nature of historic and archeological properties that are considered for listing in the National Register of Historic Places.

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and:

A. That are associated with events that have made a significant contribution to the broad patterns of our history; or

B. That are associated with the lives of persons significant in our past; or

C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

D. That have yielded, or may be likely to yield, information important to prehistory or history.

Ordinarily, cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

(a) A religious property deriving primary significance from architectural or artistic distinction or historical importance; or

(b) A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or

(c) A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his productive life; or

(d) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or

(e) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or

(f) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or

(g) A property achieving significance within the past 50 years if it is of exceptional importance.

[FR Doc. 99–28973 Filed 11–4–99; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

Emergency Notice of Removal of Agenda Item

Agency Holding the Meeting: United States International Trade Commission

Time and Date: November 9, 1999 at 11:00 a.m.

Place: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

Status: Open to the public.

Removal of Agenda Item: Agenda Item #5: Inv. No. 701–TA–224 (Review) (Live Swine from Canada)—briefing and vote.

On October 29, 1999, the Department of Commerce released its negative final determination of the likelihood of continuation or recurrence of a countervailable subsidy in connection with the subject five-year review. Accordingly, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), the five-year review of the countervailing duty order on Live Swine from Canada (Inv. No. 701–TA–224 (Review)), is terminated. In accordance with 19 C.F.R. § 201.35, the Commission hereby announces removal of this five-year review from the agenda (agenda item #5) for the meeting of Tuesday, November 9, 1999. Earlier announcement of such change to the agenda was not possible.

Issued: November 2, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–29162 Filed 11–3–99; 1:16 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor Pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be

impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Act,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW, Room S–3014, Washington, DC 20210.

New General Wage Determination Decision

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' are listed by Volume and States:

Volume III

North Carolina
NC990054 (Nov. 5, 1999)

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitle ''General Wage Determinations Issued Under the Davis—Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 29th day of October 1999.

Margaret J. Washington,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 99–28704 Filed 11–4–99; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Meeting/ Conference Call

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth the schedule of the forthcoming meeting/ conference call for NCD's advisory committee—International Watch. Notice of this meeting is required under Section 10(a)(1)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

International Watch: The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's International Committee on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

DATES: December 15, 1999, 12:00 noon–1:00 p.m. est.

FOR INTERNATIONAL WATCH INFORMATION, CONTACT: Kathleen A. Blank, Attorney/ Program Specialist, National Council on Disability, 1331 F Street NW, Suite 1050, Washington, D.C. 20004; 202–272–2004 (Voice), 202–272–2074 (TTY) 202–272–2022 (Fax), kblank@ncd.gov (e-mail).

Agency Mission: The National Council on Disability is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on international disability issues.

We currently have balanced membership representing a variety of disabling conditions from across the United States.

Open Meeting/Conference Call: This advisory committee meeting/conference call of the National Council on

Disability will be open to the public. However, due to fiscal constraints and staff limitations, a limited number of additional lines will be available. Individuals can also participate in the conference call at the NCD office. Those interested in joining this conference call should contact the appropriate staff member listed above. Records will be kept of all International Watch meetings/conference calls and will be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on November 2, 1999.

Ethel D. Briggs,

Executive Director.

[Doc. 99–29066 Filed 11–4–99; 8:45 am]

BILLING CODE 6820–MA–M

NATIONAL COUNCIL ON THE HUMANITIES

Meeting

November 1, 1999.

Pursuant to the provisions of the Federal Advisory Committee Act (Public L. 92–463, as amended) notice is hereby given the National Council on the Humanities will meet in Washington, D.C. on November 18–19, 1999.

The purpose of the meeting is to advise the Chairman of the National Council on the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, N.W., Washington, D.C. A portion of the morning and afternoon sessions on November 18–19, 1999, will not be open to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the session on November 18, 1999 will be as follows:

Committee Meetings

(Open to the Public) Policy Discussion

9–10:30 a.m.—Preservation and Access/ Challenge Grants—Room 415
Public Programs—Room 420
Federal/State Partnership—Room 507
11:30 a.m. until Adjourned—Research Programs—Room M07
Education Programs—Room M07

(Closed to the Public) Discussion of specific grant applications and programs before the Council

9–11:30 a.m.—Research Programs—Room M07
Education Programs—Room M07
10:30 a.m. until Adjourned—Preservation and Access/Challenge Grants—Room 415
Public Programs—Room 420
Federal/State Partnership—Room 507
1.30–2:30 p.m.—Regional Humanities Center Meeting—Room 415
1:30–2:30 p.m.—Jefferson Lecture—Room 430

The morning session on November 19, 1999 will convene at 9:15 a.m., in the 1st Floor Council Room M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

Minutes of the Previous Meeting

Reports

A. Introductory Remarks and Presentations
B. Staff Report
C. Congressional Report
D. Reports on Policy and General Matters
1. Overview
2. Research Programs
3. Education Programs
4. Preservation and Access and Challenge Grants
5. Public Programs
6. Federal/State Partnership
7. Jefferson Lecture

The remainder of the proposed meeting will be given to the consideration of specific applications and closed to the public for the reasons stated above.

Further information about this meeting can be obtained from Ms. Laura S. Nelson, Advisory Committee Management Officer, Washington, DC 20506, or call area code (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

Laura S. Nelson,

Advisory Committee Management Officer.

[FR Doc. 99–28948 Filed 11–4–99; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (1189).

Date/Time: November 18–19, 1999; 8:00 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 530, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Sochi Rastegar, Program Director, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. (703) 306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Exploratory Research and Biosystems at the Nanoscale proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 1, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–28957 Filed 11–4–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Electrical and Communications Systems (1196).

Date/Time: November 8–9, 1999, 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 530, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Rajinder P. Khosla, Program Director, Room 675, Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1339.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate CAREER proposals submitted in response to the program announcement (NSF 99–110).

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 1, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–28951 Filed 11–4–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Electrical and Communications Systems (1196)

Date/Time: November 16–17, 1999, 8:30 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 580, Arlington, VA

Type of Meeting: Closed.

Contact Person: Dr. Rajinder Khosla, Program Director, Division of Electrical and Communications Systems, Room 675, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1340.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Computational Engineering proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: November 1, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–28953 Filed 11–4–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Electrical and Communications Systems (1196)

Date/Time: November 15–16, 1999, 8:30 a.m.–5:00 p.m. each day.

Place: National Science Foundation, 4201 Wilson Blvd., Room 380, Arlington, VA

Type of Meeting: Closed

Contact Person: Dr. Paul Werbos and Marjia Llic, Program Directors, Division of Electrical and Communications Systems, Room 675, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 306–1340.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Computational Engineering proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b (c)(4) and (6) of the Government in the Sunshine Act.

Dated: November 1, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–28954 Filed 11–4–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experimental and Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Experimental and integrative Activities (#1193).

Date/Time: December 7, 1999, 8 a.m.—5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contract Person: Dr. Dragana Brzakovic, CISE Research Experiences for Undergraduates, Experimental and Integrative Activities, Room 1160, National Science Foundation, 4201 Wilson Boulevard, VA 22230. Telephone: (703) 306–1981.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate CISE Research Experiences for Undergraduates proposals submitted in response to the program announcement (NSF 96-102).

Reason For Closing. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 1, 1999.

Karen J. York,

Committee Management Office.

[FR Doc. 99–28956 Filed 11–4–99; 8:45am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experimental Program To Stimulate Competitive Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Experimental Program to Stimulate Competitive Research (#1198).

Date/Time: December 3, 1999, 8 a.m.–5:30 p.m.

Place: Renaissance Hotel, 999 9th Street, NW, Washington, D.C.

Type of Meeting: Closed.

Contract Person: Mr. James Hoehn, Head Office of Experimental Program to Stimulate Competitive Research (EPSCoR), National Science Foundation, 4201 Wilson Boulevard, Room 875, Arlington, VA 22230. Telephone: (703) 306–1683.

Purpose of Meeting: To provide advice and recommendations concerning EPSCoR Cooperative Agreement proposals submitted to the NSF EPSCoR program for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b (c)(4) and (6) of the Government in the Sunshine Act.

Dated: Dated: November 1, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–28955 Filed 11–4–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Geosciences (#1755).

Date/time: November 30, 1999, 8:30 a.m.–5:30 p.m., December 1, 1999, 8 a.m.–4:30 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA.

Type of meeting: Open.

Contact person: Dr. Thomas Spence, Directorate for Geosciences, National Science Foundation, Suite 705, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 306–1502.

Minutes: May be obtained from the contact person listed above.

Purpose of meeting: To provide advice, recommendations, and oversight concerning support for research, education, and human resources development in the geosciences.

Agenda: NSF Strategic Planning, Unmet Opportunities, GPRA Performance Assessment, Innovation Partnerships, Future of GEO Education Strategy.

Note: A detailed agenda will be posted on the NSF Homepage approximately one week prior to the meeting on http://www.geo.nsf.gov/adgeo/advcomm/start.htm.

Dated: November 1, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–28952 Filed 11–4–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Geosciences (#1756).

Date/Time: November 14–19, 1999; 8:30 a.m.–5 p.m..

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Reeve, Section Head, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. (703) 306–1587.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Ocean Science Research Programs proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary of confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 1, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–28958 Filed 11–4–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Geosciences (#1756).

Date/Time: December 1, 1999; 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 320, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Michael Reeve, Section Head, Ocean Sciences Research Section, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. (703) 306–1580.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Research Experience for Undergraduates proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 1, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–28959 Filed 11–4–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Geosciences (#1756).

Date/Time: December 9–10, 1999; 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 130, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Michael Reeve, Section Head, Ocean Sciences Research Section, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. (703) 306–1580.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Long Term Ecological Research Special Panel proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: November 1, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–28960 Filed 11–4–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Materials Research (#1203)

Date/Time: November 19, 1999; 8:00 a.m.–5 p.m.

Place: National Science Foundation; 4201 Wilson Blvd., Room 1060, Arlington, VA

Type of Meeting. Closed.

Contact Person: Dr. Bruce A. MacDonald, Program Director, Metals Research Program, Division of Materials Research, Room 1065, National Science Foundation, Arlington, VA 22230. (703) 306–1835.

Purpose of Meeting: To provide advice and recommendations concerning CAREER proposals submitted to NSF for financial support.

Agenda: Review and evaluate proposals as part of the selection process to determine finalists considered for FY2000 Faculty Early Career Development Proposals by the Metals Research Program.

Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: November 1, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–28950 Filed 11–4–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Social, Behavioral, and Economic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel In Social, Behavorial, and Economic Sciences (#1766)

Date/Time: January 20–21, 2000; from 8:30 a.m. to 5:00 p.m., each day.

Place: National Science Foundation, 4201 Wilson Blvd., Rooms 360, 365 and 370, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Christopher A. Loretz, Associate Program Manager, and Ms. Thomasina Edwards, Senior Program Assistant, East Asia and Pacific Program, Room 935, Division of International Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 306–1701.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate proposals submitted to the NSF Summer Programs in Japan, Korea and Taiwan (Program Announcement NSF 99–152).

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: November 1, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–28949 Filed 11–4–99; 8:45 am]

BILLING CODE 2555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Social, Behavioral and Economic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Social, Behavioral, and Economic Sciences (#1766).

Date/Time: January 6–7, 2000; 8 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 390, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Ms. Susan Parris, Program Manager, International Research Fellow Awards Program, Division of International Programs, National Science Foundation, 4201 Wilson Boulevard, Room 935, Arlington, VA 22230. (703) 306–1711.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate applications to the International Research Fellow Awards Program submitted in response to the program announcement (NSF 96–14).

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personnel information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: November 1, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–28961 Filed 11–4–99; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[DOCKET NO. 50–313]

Entergy Operations, Inc.; Arkansas Nuclear One, Unit No. 1; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Entergy Operations, Inc. (the licensee), to withdraw its September 19, 1999, application for proposed amendment to Facility Operating License No. DPR–51 for the Arkansas Nuclear One, Unit No. 2, located in Pope County, Arkansas.

The proposed amendment would have modified the facility technical specifications to allow the use of steam generator repair roll technology as a repair method for tubesheet defects identified in the steam generator upper tubesheet region.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on September 23, 1999 (64 FR 51561). However, by letter dated September 30, 1999, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated September 19, 1999, and the licensee's letter dated September 30, 1999, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and publicly available electronically from the ADAMS Public Library Component on the NRC Web site at http://www.nrc.gov (the Electronic Reading Room).

Dated at Rockville, Maryland, this 28th day of October 1999.

For the Nuclear Regulatory Commission.

M. Christopher Nolan,

Project Manager, Section 1, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–29047 Filed 11–4–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Northeast Nuclear Energy Company, et al.; Millstone Nuclear Power Station, Unit No. 3 Environmental Assessment and Finding of No Significant Impact

[Docket No. 50–423]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–49, issued to Northeast Nuclear Energy Company (NNECO or the licensee), for operation of the Millstone Nuclear Power Station, Unit No. 3 (MP3), located in New London County, Connecticut.

Environmental Assessment

Identification of the Proposed Action:

The proposed action would correct existing editorial and typographical errors in the Technical Specifications (TS). Each proposed change has been verified to meet the intent of what was originally proposed by NNECO and approved by the NRC in previously processed amendments to the TS. These changes are purely administrative and do not impact the operation of the facility. The proposed changes are summarized below.

1. TS 3.8.3.2—Change 3.8.3.2.b.4.1 to 3.8.3.2.b.4.a.

2. TS 4.6.2.1.a.1 and TS 4.6.2.2.a—Add the word ''that'' after the words ''flow path.''

3. TS 4.8.1.1.2.i—Change TS 4.8.1.1.2.i.1 to TS 4.8.1.1.2.i.

4. TS 4.9.12—Change TS 4.9.12 to TS 4.9.12.1.

The proposed action is in accordance with the licensee's application for amendment dated August 5, 1999.

The Need for the Proposed Action

Changes to TS 3.8.3.2 and TS 4.9.12 are needed to correct sequential numbering in the TS. Changes to TS

4.6.2.1.a.1 and TS 4.6.2.2.a are needed to address a TS modification that was previously approved by the NRC in Amendment 50. The word ''that'' was inadvertently omitted from these TS Sections when Amendments 100 and 122 were approved. The change to TS 4.9.12 is needed to clarify that there is only one surveillance requirement in this paragraph.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the modifications to the TS are administrative in nature.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the ''Final Environmental Statement Related to the Operation of Millstone Nuclear Power Station, Unit No. 3,'' dated December 1984 (NUREG–1064).

Agencies and Persons Consulted

In accordance with its stated policy, on August 19, 1999, the staff consulted with the Connecticut State official, Mr. Denny Galloway of the Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 5, 1999, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, 49 Rope Ferry Road, Waterford, Connecticut.

Dated at Rockville, Maryland, this 1st day of November 1999.

For the Nuclear Regulatory Commission.

John A. Nakoski, Sr.

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–29050 Filed 11–4–99; 8:45 am]

BILLING CODE 7590–01–U

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Application for Benefits Due but Unpaid at Death; OMB 3220–0055.

Under Section 2(g) of the Railroad Unemployment Insurance Act (RUIA), benefits under that Act that accrued but were not paid because of the death of an employee shall be paid to the same individual(s) to whom benefits are payable under Section 6(a)(1) of the Railroad Retirement Act. The provisions relating to the payment of such benefits are prescribed in 20 CFR 325.5 and 20 CFR 335.5.

The RRB provides Form UI–63 for use in applying for the accrued sickness or unemployment benefits unpaid at the death of the employee and for securing the information needed by the RRB to identify the proper payee. Completion is voluntary. One response is requested of each respondent.

The RRB proposes minor editorial changes to the UI–63. The completion time for the UI–63 is estimated at 7 minutes. The RRB estimates that approximately 200 responses are received annually.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–28991 Filed 11–4–99; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24118]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

October 29, 1999.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of October 1999. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW, Washington, DC 20549–0102 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and

serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 22, 1999, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549–0609. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW, Washington, DC 20549–0506.

BlackRock Fund Investors I [File No. 811–8986], BlackRock Fund Investors II [File No. 811–8990], BlackRock Fund Investors III [File No. 811–8988] and BlackRock Asset Investors [File No. 811–8984]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On September 27, 1999, each applicant made a final liquidating distribution to its common shareholders at net asset value per share. Preferred shares of BlackRock Asset Investors also were redeemed on September 27, 1999. On September 10, 1999, each applicant redeemed its outstanding notes. BlackRock Fund Investors I, BlackRock Fund Investors II, and BlackRock Fund Investors III each incurred expenses of $12,500 in connection with the liquidations. BlackRock Asset Investors incurred expenses of $92,500 in connection with the liquidation.

Filing Dates: Each application was filed on September 30, 1999. BlackRock Asset Investors filed an amended application on October 20, 1999.

Applicants' Address: 345 Park Avenue, New York, New York 10022.

TCW/DW Income and Growth Fund [File No. 811–7372]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 28, 1999, applicant transferred its assets to Morgan Stanley Dean Witter Income Builder Fund, based on net asset value. Expenses of $95,645 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on October 12, 1999.

Applicant's Address: Two World Trade Center, 70th Floor, New York, New York 10048

Morgan Stanley Dean Witter Global Short-Term Income Fund Inc. [File No. 811–6148]; Morgan Stanley Dean Witter Mid-Cap Growth Fund [File No. 811–7179]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment Company. On March 15, 1999, Morgan Stanley Dean Witter Global Short-Term Income Fund Inc. transferred its assets to Morgan Stanley Dean Witter Worldwide Income Trust, based on net asset value. On June 28, 1999, Morgan Stanley Dean Witter Mid-Cap Growth Fund transferred its assets to Morgan Stanley Dean Witter Mid-Cap Equity Trust, based on net asset value. Expenses of $119,373 and $209,654, respectively, incurred in connection with the reorganizations were paid by each applicant.

Filing Dates: Each application was filed on October 12, 1999.

Applicant's Address: Two World Trade Center, 70th Floor, New York, New York 10048.

Blackrock MQE Investors [File No. 811–7903]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On September 10, 1999, applicant made a final liquidating distribution to its common shareholders at net asset value per share. Preferred units of applicant were redeemed on March 4, 1999. Expenses of $10,000 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on September 27, 1999.

Applicant's Address: 345 Park Avenue, New York, New York 10154.

Northstar Strategic Income Fund [File No. 811–8414]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 20, 1998, applicant transferred its assets to Northstar High Yield Fund (the ''Acquiring Fund''), based on net asset value. Expenses of $57,538 incurred in connection with the reorganization were paid by the Acquiring Fund.

Filing Date: The application was filed on September 15, 1999.

Applicant's Address: Northstar Investment Management Corporation, 300 First Stamford Place, Stamford, Connecticut 06902.

TCW/DW Emerging Markets Opportunities Trust [File No. 811–8240]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 21, 1999, applicant made a liquidating distribution to its shareholders at net asset value per share. Expenses of $26,000 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on September 24, 1999.

Applicant's Address: Two World Trade Center, New York, New York 10048.

VAM Institutional Funds, Inc. [File No. 811–4546]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 1, 1999, applicant made a liquidating distribution to its shareholders at net asset value per share. Expenses of $35,000 incurred in connection with the liquidation were paid by applicant's investment adviser.

Filing Dates: The application was filed on July 19, 1999, and amended on September 29, 1999.

Applicant's Address: 90 South Seventh Street, Suite 4300, Minneapolis, Minnesota 55402.

Balanced Portfolio [File No. 811–8502]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On August 1, 1999, applicant made a liquidating distribution to its shareholders at net asset value per share. Expenses of $10,000 incurred in connection with the liquidation were paid by Citibank, N.A., applicant's investment adviser.

Filing Date: The application was filed on October 26, 1999.

Applicant's Address: Elizabethan Square, George Town, Grand Cayman, Cayman Islands, BWI.

Voyageur Investment Trust II [File No. 811–8350]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 18, 1998, applicant made a liquidating distribution to its shareholders at net asset value per share. Expenses of $360 incurred in connection with the liquidation were paid by the applicant.

Filing Date: The application was filed on October 25, 1999.

Applicant's Address: 1818 Market Street, Philadelphia, Pennsylvania 19103.

MBL Growth Fund, Inc. [File No. 811–3593]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 22, 1999, applicant made a liquidating distribution to its shareholders based on net asset value per share. Expenses of $4,175 were incurred in connection with the liquidation and were paid by applicant.

Filing Dates: The application was filed on July 22, 1999, and amended on September 29, 1999.

Applicant's Address: 520 Broad Street, Newark, New Jersey 07102–3111.

MBL Variable Contract Account—2 [File No. 811–2047]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 30, 1999, and July 14, 1999, applicant made liquidating distributions to its shareholders based on net asset value per share. No expenses were incurred in connection with the liquidation.

Filing Date: The application was filed on July 29, 1999.

Applicant's Address: 520 Broad Street, Newark, New Jersey 07102–3111.

MBL Variable Contract Account—3 [File No. 811–2313]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 30, 1999, and July 14, 1999, applicant made liquidating distributions to its shareholders based on net asset value per share. No expenses were incurred in connection with the liquidation.

Filing Dates: The application was filed on July 29, 1999, and amended on September 29, 1999, and October 4, 1999.

Applicant's Address: 520 Broad Street, Newark, New Jersey 07102–3111.

MBL Variable Contract Account—7 [File No. 811–3853]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 30, 1999, applicant made a liquidating distribution to its shareholders based on net asset value per share. No. expenses were incurred in connection with the liquidation.

Filing Date: The application was filed on July 29, 1999.

Applicant's Address: 520 Broad Street, Newark, New Jersey 07102–3111.

MBL Variable Contract Account—9 [File No. 811–5224]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 30, 1999, applicant made a liquidating distribution to its shareholders based on net asset value per share. No. expenses were incurred in connection with the liquidation.

Filing Date: The application was filed on July 30, 1999.

Applicant's Address: 520 Broad Street, Newark, New Jersey 07102–3111.

MBL Variable Contract Account—11 [File No. 811–5798]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 30, 1999, applicant made a liquidating distribution to its shareholders based on net asset value per share. No expenses were incurred in connection with the liquidation.

Filing Date: The application was filed on July 30, 1999.

Applicant's Address: 520 Broad Street, Newark, New Jersey 07102–3111.

Empire Life Deferred Variable Annuity Account [File No. 811–05478]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has not made any public offering of its securities and does not propose to make any public offering or engage in business of any kind.

Filing Date: The application was filed on August 17, 1999.

Applicant's Address: 5069 154th Place NE, Redmond, Washington 98052.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–28975 Filed 11–4–99; 8:45 am]

BILLING CODE 8010–01–M

STATE JUSTICE INSTITUTE

Sunshine Act Meeting

Notice of Public Meeting

STATE JUSTICE INSTITUTE

Date: Friday, November 12, 1999; 9 am–5 pm.

Place: Harrahs, South Tahoe, NV.

Matters To Be Considered: Consideration of proposals submitted for Institute funding.

Portions Open to the Public: All matters other than those noted as closed below.

Portions Closed to the Public: Internal personnel matters and Board of Directors' committee meetings.

Contact Person: David Tevelin, Executive Director, State Justice Institute, 1650 King Street Suite 600, Alexandria, VA 22314, (703) 684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 99–29163 Filed 11–3–99; 1:18 pm]

BILLING CODE 6820–SC–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–6433]

International Regulatory Harmonization, Motor Vehicle Safety; Motor Vehicles and Motor Vehicle Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of technical meeting.

SUMMARY: NHTSA is hosting the second in a series of informal technical meetings relating to global tire harmonization issues before the Working Party on Brakes and Running Gear (GRRF). The GRRF is one of several subsidiary bodies, known as working parties, formed by the United Nations/Economic Commission for Europe Working Party on the Construction of Motor Vehicles (WP.29) to address particular aspects of motor vehicle performance. The decision to initiate the series of informal technical meetings was made by the Chair of the GRRF. The meetings are focusing on two issues: (1) Globally harmonizing tire regulations, and (2) establishing minimum performance requirements for tire grip (traction).

DATES: The informal technical meeting will be held on Thursday and Friday, November 18–19, 1999, at the address given below, and will begin at 9 p.m. and end at 5 p.m. each day.

In view of seating limitations, organizations and individuals wishing to attend the meeting are requested to contact Mr. George Soodoo by Monday, November 15, 1999.

ADDRESSES: On November 18, 1999, the meeting will be in Room 4438 of the Nassif Building, 400 Seventh St, SW, Washington, DC 20590. On November 19, 1999, the meeting will be in Room 3328 of the Nassif Building.

FOR FURTHER INFORMATION CONTACT: Mr. George Soodoo, Group Leader, Vehicle Dynamics Division, Office of Safety Performance Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590. Tel: (202)–366–2720, and Fax: (202)–366–4329, email: gsoodoo@nhtsa.dot.gov.

Ms. Julie Abraham, Director, Office of International Policy and Harmonization, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590. Tel: (202)–366–2114, and Fax: (202)–366–2559.

SUPPLEMENTARY INFORMATION: This notice is to advise interested parties that, on November 18 and 19, 1999, NHTSA will host an informal technical meeting relating to global tire harmonization activities of the Working Party on Brakes and Running Gear (GRRF). The GRRF is one of several subsidiary bodies, known as working parties, formed by the United Nations Economic Commission for Europe Working Party on the Construction of Vehicles to address particular aspects of motor vehicle performance.

I. Background

At the 45th Session of the GRRF, held in Geneva, Switzerland, in February 1999, the European Tyre and Rim Technical Organisation (ETRTO) submitted a proposal for a global technical regulation for passenger cars tires.[1] (The GRRF is responsible for developing safety regulations not only on tires, but also on brakes, wheels and other chassis components of motor vehicles.) In response, the chair of the GRRF encouraged interested participating countries to host informal technical meetings to address the global harmonization of tire regulations. He also asked that these meetings address minimum performance requirements for tire grip (traction), which was originally proposed by the U.K. in February 1998, as an amendment to ECE Regulation 30, Pneumatic Tyres.

The United Kingdom's Department of Environment, Transport, and Regions (DETR) hosted the first informal technical meeting in London, England on July 1–2, 1999. Mr. Gordon Burford of the DETR chaired the meeting on behalf of Mr. Geoff Harvey, the Chair of the informal technical group, who was unable to participate in the meeting. The meeting was attended by sixteen representatives from the following governments and organizations: The United States, the United Kingdom, Germany, Japan, Hungary, the Netherlands, ETRTO, and RMA. The participants spent the first day discussing the technical aspects associated with developing a global tire standard, including tire dimensions, markings, and specific performance tests. They spent the second day discussing what requirements should be included in the tire grip test. The minutes from the first meeting are available in NHTSA Docket 98–3592 (See document #12).

II. Second Informal Technical Meeting on Global Tire Harmonization

On November 18 and 19, 1999, the United States will host the second informal technical meeting on global tire harmonization of the GRRF at the U.S. Department of Transportation. The meeting will follow the informal discussion format of the first meeting. Mr. Geoff Harvey of the DETR will chair the meeting. The goal of the meeting is to address the specific research and development needs associated with global tire harmonization and minimum performance requirements for tire grip (traction). The first day of the meeting will focus on the technical issues associated with the global harmonization of tire standards. The group will begin the process of drafting a technical regulation that will eventually be submitted to the GRRF. The second day of the meeting will address issues related to tire grip. The group intends to address the form of testing that should be used to measure tire grip (e.g., surface selection, testing mode, *etc.*).

The minutes of the meeting will be kept and placed in the public docket for this notice.

All persons and organizations wishing to attend the meeting are asked to contact George Soodoo at the address or telephone number indicated above.

Seating is limited. Therefore, we ask that organizations limit the number of their representatives to one or two persons in order to ensure that all individuals and organizations who wish to participate are able to do so.

Following is the provisional agenda for the meeting:

UN ECE GRRF Ad-hoc Group—Global Harmonization of Tyre Regulations and Tyre Grip

Provisional Agenda: 2nd meeting 18 and 19 November 1999, to be held in Washington DC, U.S.A.

Thursday 18 November—Global Harmonization of Tire Regulations

- Minutes of the first meeting.
- Draft document for global tire harmonization.
- Response of tire industry to U.S. request for information.

Friday 18 November—Tire Grip

- U.K. proposal on tire grip.
- Discussion on variety of issues including research needs, test surface, and selection of control tire.

Issued on: November 2, 1999.

Martin Koubek,

Assistant to the Director Office of International Policy and Harmonization.

[FR Doc. 99–29140 Filed 11–3–99; 2:19 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33805]

Ameren Corporation—Control Exemption—Missouri Central Railroad Company

Ameren Corporation (Ameren), the parent of wholly owned subsidiary Ameren ERC, Inc. (ERC), has filed a verified notice of exemption to continue in control of the Joppa & Eastern Railroad (JERR) and to acquire control of Missouri Central Railroad Company (MCRR). On October 13, 1999, Ameren and ERC also filed a motion for

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[1] The proposed new global tire standard (also known as Global Tire Standard 2000 for New Pneumatic Passenger Car Tires (GTS–2000)) seeks to harmonize the tire standards of the United States, Europe and Japan. It was developed in the context of the TransAtlantic Business Dialogue with the cooperation and support of members from the international tire industry (specifically, the Rubber Manufacturers Association (RMA) from the United States, the Liaison Office of the Rubber Industry of the European Union (BLIC), and the Japan Automobile Tire Manufacturers Association (JATMA)). During the process, the RMA consulted with consumer groups. The tire industry developed the proposed new global tire standard with the intent of recommending its adoption by the United States, other interested governments, WP.29, and the International Standards Organization (ISO). Before developing the proposed new global tire standard, the tire industry reviewed and compared the tire standards of the United States, Europe, Australia, Brazil, Canada, China, Mexico, and Saudi Arabia. A copy of the proposed new global tire standard was submitted to NHTSA by BLIC and is available in NHTSA Docket 98–4367 (See document #30).

As described by RMA, the proposed new global tire standard ''lists the following test criteria: (1) Physical dimensions for overall width and outer diameter; (2) strength test (plunger energy) for bias-ply and bias-belted tires; (3) bead unseating resistance tests for bias-ply and bias-belted tires; (4) low speed (not less than 50 mph) endurance tests for bias-ply and bias-belted tires plus all radial tires with a speed symbol of ''Q'' or below; and (5) high speed endurance test for all tires (bias-ply, bias-belted, and radial).'' In addition, it contains labeling requirements covering tire pressure, load rating, and tire construction.

The proposed new global tire standard was announced at the November 1998 TABD Conference in Charlotte, North Carolina.

On January 25, 1999, the RMA, the Tire and Rim Association (TRA), the Rubber Association of Canada (RAC), JATMA, ETRTO, and BLIC petitioned NHTSA requesting that we revise and update Federal Motor Vehicle Safety Standard No. 109, New Pneumatic Tires, to conform to the proposed new global tire standard. On June 8, 1999, we granted the petition. In a September 3, 1999 letter to all of the petitioners, we solicited additional information regarding each of the petitioners' requests. A copy of the letter is available in the docket for this notice.

protective order under 49 CFR 1104.14 and a protective order was granted.[1]

The transaction was scheduled to be consummated on or shortly after October 20, 1999.

Ameren, a noncarrier holding company, currently controls one railroad, the JERR, through Ameren's controlling interest in Electric Energy, Inc. (EEI).[2] ERC is not a rail carrier and does not control any rail carriers. ERC purchased 95% of the stock of MCRR.[3] Because ERC's parent is already in control of one railroad (JERR), the MCRR stock purchased by ERC was placed in a voting trust on October 7, 1999. On or shortly after the October 20, 1999 effective date of this control exemption, ERC was expected to assume control of MCRR. The stock of MCRR had been owned 100% by General Railway Corporation, with the principal shareholder being John F. Larkin.

Ameren states that: (i) These railroads do not connect with each other; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33805, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John R. Molm, Esq., Troutman Sanders LLP, 1300 I Street, NW, Suite 500 East, Washington, DC 20005–3314.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: October 29, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–28878 Filed 11–4–99; 8:45 am]

BILLING CODE 4915–00–P

[1] *See Ameren Corporation—Control Exemption—Missouri Central Railroad Company,* STB Finance Docket No. 33805 (STB served Oct. 22, 1999).

[2] The JERR owns and operates approximately 5 miles of track within Illinois. EEI was authorized by the Board's predecessor, the Interstate Commerce Commission (ICC), to construct the approximately 5-mile line in *Joppa and Eastern Railroad Co.—Construction Exemption—Joppa, IL,* Finance Docket No. 31656 (ICC served July 5 and Dec. 24, 1990). The ICC also authorized the JERR to lease approximately 2.5 miles of existing trackage in the same vicinity in *Joppa and Eastern Railroad Co.—Petition for Exemption—Lease—Missouri Pacific Railroad Co.,* Finance Docket No. 31656 (Sub-No. 1) (ICC served May 16, 1991).

[3] All of MCRR's rail line will be within Missouri. The verified notice states that MCRR will own and operate approximately 278 miles of railroad. The notice also states that MCRR was to acquire ownership of approximately 244.5 miles of line and trackage rights over 33.5 miles of line on the date of filing of this verified notice (October 13, 1999), upon consummation of noncarrier GRC Holdings Corporation's acquisition and immediate conveyance to MCRR of rail assets from Union Pacific Railroad Company. *See GRC Holdings—Acquisition Exemption—Union Pacific Railroad Co.,* STB Finance Docket No. 33537 (STB served Jan. 27, 1998) and *Missouri Central Railroad Co.—Acquisition and Operation Exemption—Lines of Union Pacific Railroad Co.,* STB Finance Docket No. 33508 (STB served Jan. 27, 1998).

DEPARTMENT OF THE TREASURY

Departmental Offices; International Monetary Fund Advisory Committee

AGENCY: Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: Under section 610 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1999, the Secretary of the Treasury is required to establish an International Monetary Fund Advisory Committee (the ''Committee'') to advise the Secretary on IMF policy.

DATES: The second meeting of the Committee will be held on November 22, 1999, beginning at 1:30 p.m. in the Diplomatic Room located on the third floor of the main Department of the Treasury building, 1500 Pennsylvania Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Designated Federal Official: William McFadden, Senior Policy Advisor, Office of International Monetary and Financial Policy, Room 4444, Department of the Treasury, 1500 Pennsylvania Avenue N.W., Washington, D.C., 20220. Telephone number 202–622–0343, fax number (202) 622–7664.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The IMF Advisory Committee will discuss the legislated mandates that affect the financial services sector, with a focus on questions related to strengthening the domestic market and questions that relate to burden sharing and crisis resolution.

Procedural

This meeting is open to the public. Please note that the meeting may close early if all business is finished. If you wish to attend please FAX your full name, birthday, and social security number to the Designated Federal Official no later than 4 p.m., November 17, for clearance into the Treasury Building.

Members of the public may submit written comments. If you wish to furnish such comments, please provide 16 copies of your written material to the Designated Federal Official. If you wish to have your comments distributed to members of the Committee in advance of the second meeting, 16 copies of any written material should be provided to the Designated Federal Official no later than November 15, 1999.

Dated: October 28, 1999.

Lauren M. Vaughan,

Designated Federal Official.

[FR Doc. 99–28820 Filed 11–4–99; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the

Airlines Withdrawing Stock From Customs Custody.

DATES: Written comments should be received on or before January 4, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Jim Ficaretta, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8230.

SUPPLEMENTARY INFORMATION:

Title: Airlines Withdrawing Stock From Customs Custody.

OMB Number: 1512–0384.

Recordkeeping Requirement ID Number: ATF REC 5620/2.

Abstract: Airlines may withdraw tax exempt distilled spirits, wine, and beer from Customs custody for foreign flights. The required record shows amount of spirits and wine withdrawn and flight identification, also shows Customs certification. Enables ATF to verify that tax is not due, allows spirits and wines to be traced and maintains accountability. The record retention period for this information collection is 2 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 25.

Estimated Time Per Respondent: 100 annually.

Estimated Total Annual Burden Hours: 2,500.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 28, 1999.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 99–29006 Filed 11–4–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application to Establish and Operate Wine Premises and Wine Bond.

DATES: Written comments should be received on or before January 4, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Tom Busey, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

SUPPLEMENTARY INFORMATION:

Title: Application to Establish and Operate Wine Premises and Wine Bond.

OMB Number: 1512–0058.

Form Number: ATF F 5120.25 and ATF F 5120.36.

Abstract: ATF F 5120.25 is used to establish the qualifications of an applicant for a wine premises. The applicant certifies the intention to produce and/or store a specified amount of wine and take certain precautions to protect it from unauthorized use. ATF F 5120.36 is used by the proprietor and a surety company as a contract to ensure the payment of the wine excise tax.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,720.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 810.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 28, 1999.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 99–29007 Filed 11–4–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C.

3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Wholesale Dealers Applications, Letterheads, and Notices Relating to Operations (Variations in Format or Preparation of Records).

DATES: Written comments should be received on or before January 4, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to William Foster, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8374.

SUPPLEMENTARY INFORMATION:

Title: Wholesale Dealers Applications, Letterhead, and Notices Relating to Operations (Variations in Format or Preparation of Records)

OMB Number: 1512–0357

Recordkeeping Requirement ID Number: ATF REC 5170/6

Abstract: This recordkeeping requirement pertains only to those wholesale liquor and beer dealers submitting applications for a variance from the regulations dealing with preparation, format, type, or place of retention of records of receipt or disposition for alcoholic beverages. The record retention requirement for this information collection is 6 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,029.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 515.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 28, 1999.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 99–29008 Filed 11–4–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Retail Liquor Dealers Records of Receipts of Alcoholic Beverages and Commercial Invoices.

DATES: Written comments should be received on or before January 4, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Jim Ficaretta, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8230.

SUPPLEMENTARY INFORMATION:

Title: Retail Liquor Dealers Records of Receipts of Alcoholic Beverages and Commercial Invoices.

OMB Number: 1512–0354.

Recordkeeping Requirement ID Number: ATF REC 5170/3.

Abstract: The primary objective of this recordkeeping requirement is revenue protection by establishment of accountability data available for audit purposes. A second objective, consumer protection, is afforded by subject record traceability of alcoholic beverages to the retail liquor dealer level of distribution in the event of defective products. The record retention requirement for this information collection is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit, State, Local or Tribal Government.

Estimated Number of Respondents: 455,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1 hour.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 28, 1999.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 99–29009 Filed 11–4–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort

to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Stills: Notices, Registration, and Records.

DATES: Written comments should be received on or before January 4, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Cliff Mullen, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8181.

SUPPLEMENTARY INFORMATION:

Title: Stills: Notices, Registration, and Records.

OMB Number: 1512–0341.

Recordkeeping Requirement ID Number: ATF REC 5150/8.

Abstract: The information is used to account for and regulate the distillation of distilled spirits to protect the revenue and to provide for identification of distillers. The record retention requirement for this information collection is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 10.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 21.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 28, 1999.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 99–29010 Filed 11–4–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Tax-Exempt Transfer and Registration of a Firearm.

DATES: Written comments should be received on or before January 4, 2000 to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dave Marshall, National Firearms Act Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8330.

SUPPLEMENTARY INFORMATION:

Title: Application for Tax-Exempt Transfer and Registration of a Firearm.

OMB Number: 1512–0028.

Form Number: ATF F 5 (5320.5).

Abstract: The National Firearms Act requires that the information contained on this form be submitted to the Secretary for a tax exempt transfer of a NFA firearm. The form identifies current and prospective owners, and the firearm, as well as to ensure the legality of transfer under Federal, State and local law.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households, business or other for-profit, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 62,321.

Estimated Time Per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 498,568.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 28, 1999.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 99–29011 Filed 11–4–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this

opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Tax-Paid Transfer and Registration of a Firearm.

DATES: Written comments should be received on or before January 4, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dave Marshall, National Firearms Act Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8330.

SUPPLEMENTARY INFORMATION:

Title: Application for Tax-Paid Transfer and Registration of a Firearm.

OMB Number: 1512–0027.

Form Number: ATF F 4 (5320.4).

Abstract: ATF 4 (5320.4) must be submitted to ATF to obtain approval for tax paid transfers of NFA firearms. Approval of a transfer and registration of a firearm to a new owner are accomplished with the information supplied on this document. The record retention requirement for this information collection is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households, business or other for-profit.

Estimated Number of Respondents: 7,853.

Estimated Time Per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 31,412.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 28, 1999.

Willaim T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 99–29012 Filed 11–4–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application to Transport Interstate or Temporarily Export Certain National Firearms Act (NFA) Firearms.

DATES: Written comments should be received on or before January 4, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dave Marshall, National Firearms Act Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8330.

SUPPLEMENTARY INFORMATION:

Title: Application to Transport Interstate or Temporarily Export Certain National Firearms Act (NFA) Firearms.

OMB Number: 1512–0022.

Form Number: ATF F 5320.20.

Abstract: ATF F 5320.20 is used to request permission to move certain NFA firearms in interstate or foreign commerce.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 800.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 400.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 28, 1999.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 99–29013 Filed 11–4–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the

Application and Permit for Permanent Exportation of Firearms.

DATES: Written comments should be received on or before January 4, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dave Marshall, National Firearms Act Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8330.

SUPPLEMENTARY INFORMATION:

Title: Application and Permit for Permanent Exportation of Firearms.

OMB Number: 1512–0020.

Form Number: ATF F 9 (5320.9).

Abstract: ATF F 9 (5320.9) is required of any person desiring to export an NFA firearm without payment of transfer tax and to establish such exportation to relieve the exporter from payment of the transfer tax.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit, individuals or households

Estimated Number of Respondents: 70.

Estimated Time Per Respondent: 18 minutes.

Estimated Total Annual Burden Hours: 1,050.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 28, 1999.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 99–29014 Filed 11–4–99; 8:45 am]

BILLING CODE 4810–13–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the ATF Distribution Center Contractor Survey.

DATES: Written comments should be received on or before January 4, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dirck Harris, Document Services Branch, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–8930.

SUPPLEMENTARY INFORMATION:

Title: ATF Distribution Center Contractor Survey.

OMB Number: 1512–0002.

Form Number: ATF F 1600.7.

Abstract: ATF 1600.7 provides users of the Bureau's forms and publications an opportunity to comment on the Bureau's Distribution Center contractor and the services it provides. The users can evaluate and comment on the services of the Distribution Center contractor.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review:. Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 21,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 168.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 28, 1999.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 99–29015 Filed 11–4–99; 8:45 am]

BILLING CODE 4810–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, South Florida District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the So. Fla. Citizen Advocacy Panel will be held in Sunrise, Florida.

DATES: The meeting will be held Friday, November 12, 1999 and Saturday, November 13, 1999.

FOR FURTHER INFORMATION CONTACT: Nancy Ferree at 1–888–912–1227, or 954–423–7973.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Citizen Advocacy Panel will be held Friday, November 12, 1999 from 6:00 pm to 9:00 pm and Saturday, November 13, 1999 from 9:00 am to 1:00 pm, in Room 225, CAP Office, 7771 W. Oakland Park Blvd., Sunrise, Florida 33351. The

public is invited to make oral comments. Individual comments will be limited to 10 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 954–423–7973, or write Nancy Ferree, CAP Office, 7771 W. Oakland Park Blvd., Rm. 225, Sunrise, FL 33351. Due to limited conference space, notification of intent to attend the meeting must be made with Nancy Ferree. Ms. Ferree can be reached at 1–888–912–1227 or 954–423–7973.

The agenda will include the following: Various IRS issue updates and reports by the CAP sub-groups.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: October 29, 1999.

Cathy VanHorn,

Chief, CAP and Communications.

[FR Doc. 99–28967 Filed 11–4–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service, Treasury

Performance Review Board

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of members of Senior Executive Service Performance Review Board.

EFFECTIVE DATE: Performance Review Board effective October 1, 1999.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, M:ES, Room 3515, 1111 Constitution Avenue, NW, Washington, DC 20224, Telephone No. (202) 622–6320, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for senior executives in Field Offices are as follows:

Charles Fowler III, National Director, EEO and Diversity

Dale Hart, Regional Commissioner, Midstates Region

Herma Hightower, Regional Commissioner, Northeast Region

Robert Johnson, Regional Commissioner, Southeast Region

Jimmy Smith, Acting Executive Officer for Service Center Operations

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43FR52122).

Charles O. Rossotti,

Commissioner of Internal Revenue.

[FR Doc. 99–28968 Filed 11–4–99; 8:45 am]

BILLING CODE 4830–01–U

TWENTY-FIRST CENTURY WORKFORCE COMMISSION

Notice of Open Meeting

AGENCY: Twenty-First Century Workforce Commission.

ACTION: Notice of open meeting.

SUMMARY: Establishment of the Twenty-First Century Workforce Commission was mandated by Subtitle C of Title III of the Workforce Investment Act, Sec. 331 of Public Law 105–220, 112 Stat. 1087–1091, (29 U.S.C. 2701 note), signed into law on August 7, 1998. The 15 voting member Twenty-First Century Workforce Commission will be a body within the Legislative Branch, and is charged with studying all aspects of the information technology workforce in the United States.

TIME & PLACE: The meeting will be held from 10 a.m. to approximately 4 p.m. on Tuesday, November 16, 1999, at the U.S. Department of Labor, 200 Constitution Ave, NW, Washington DC 20210, in the Policy Center, Room S–2312. Some Commissioners may attend by telephone conference call. The occurrence of this meeting will depend on the availability of appropriations, which may not be determined until shortly before the meeting. For up-to-date information, please contact Ruth Samardick at (202) 219–6197, ext 130.

AGENDA: The agenda for the Commission meeting will include: introduction of Commissioners; election of Chair and Vice Chair; Adoption of Charter; Commission Organization and Staffing; and time line.

PUBLIC PARTICIPATION: The meeting, from 10 a.m. to 4 p.m., is open to the public. Seating is limited and will be available on a first-come, first-served basis. Seats will be reserved for the media. Individuals with disabilities should contact Ruth Samardick at (202) 219–6197, ext. 130, if special accommodations are needed.

FOR FURTHER INFORMATION CONTACT: Ruth Samardick, Secretary of Labor's Designated Liaison to the Twenty-First Century Workforce Commission, at (202) 219–6197, ext 130.

Due to difficulties of scheduling the members, we are unable to provide a full 15-day advance notice of this meeting.

Signed at Washington, DC, this 1st day of November, 1999.

Susan M. Green,

Ex-Officio Member, Twenty-First Century Workforce Commission.

[FR Doc. 99–29108 Filed 11–4–99; 8:45 am]

BILLING CODE 4510–23–U

U.S. TRADE DEFICIT REVIEW COMMISSION

Notice of Open Hearing

AGENCY: U.S. Trade Deficit Review Commission.

ACTION: Notice of open public hearing.

SUMMARY: Notice is hereby given of the following hearing of the U.S. Trade Deficit Review Commission.

The Commission is mandated to report to the Congress and the President on the causes, consequences, and solutions to the U.S. trade deficit. The purpose of this public hearing is to discuss high technology and software trade and U.S.-Asia financial relations. There will be two sessions, one in the morning and one in the afternoon, for presentations by invited witnesses on their views on the interrelationship between the trade deficit and the topics of the hearing. There will be a question and answer period between the Commissioners and the witnesses.

Public participation is invited and there will be an open-mike session for public comment at the conclusion of the afternoon session. Sign-up for the open-mike session will take place in the afternoon and will be on a first come first served basis. Each individual or group making an oral presentation will be limited to a total time of 3 minutes. Because of time constraints, parties with common interests are encouraged to designate a single speaker to represent their views.

DATES: Monday, November 15, 1999, 8:30 am–4:00 pm Pacific Time inclusive.

ADDRESSES: The hearing will be held at the Hyatt Rickeys Hotel in Palo Alto in the Camino Ball Conference Room, 4219 El Camino Real, Palo Alto, CA 94306. Public seating is limited to about 150 seats and will be on a first come first served basis. Free public parking is available at the hotel.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the hearing or who wishes to submit oral or written comments should contract Kathy Michels, Administrative Officer for the U.S. Trade Deficit Review Commission, 444 North Capitol Street, NW, Suite 706,

Washington, DC 20001; phone 202/624–1407; or via e-mail at: *tdrc@sso.org.*

Providing Oral or Written comments at the Palo Alto Hearing

Copies of the draft meeting agenda, when available, may be obtained from the U.S. Trade Deficit Review Commission by going to the Commission's website at www.ustdrc.gov. The Commission requests that written public statements submitted for the record be brief and concise and limited to two pages in length. Written comments (at least 35 copies) must be received at the USTDRC Headquarters Office in Washington, DC by November 10, 1999. Comments received too close to the hearing date will normally be provided to the Commission Members at its hearing. Written comments may be provided up until the time of the hearing.

Authority: The Trade Deficit Review Commission Act, Pub. L. No. 105–277, Div. A, section 127, 112 Stat. 2681–547 (1998), established the Commission to study the nature, causes and consequences of the United States merchandise trade and current accounts deficits and report its findings to the President and the Congress. By statute, the Commission must hold at least 4 regional field hearings and 1 hearing in Washington, DC. This is the second in a series of field hearings to be conducted. The schedule of hearings is available at the US Trade Deficit Review Commission website <www.ustdrc.gov≤.

For the U.S. Trade Deficit Review Commission.

Dated Washington, DC, November 2, 1999.

Allan I. Mendelowitz,

Executive Director, U.S. Trade Deficit Review Commission.

[FR Doc. 99–29022 Filed 11–4–99; 8:45 am]

BILLING CODE 6820–46–M

U.S. TRADE DEFICIT REVIEW COMMISSION

Notice of Open Hearing

AGENCY: U.S. Trade Deficit Review Commission.

ACTION: Notice of open public hearing.

SUMMARY: Notice is hereby given of the following hearing of the U.S. Trade Deficit Review Commission.

The Commission is mandated to report to the Congress and the President on the causes, consequences, and solutions to the U.S. trade deficit. The purpose of this public hearing is to discuss aerospace and other high-technology exports, and U.S.-Asia trade and market access. There will be two sessions, one in the morning and one in the afternoon, for presentations by invited witnesses on their views on the interrelationship between the trade deficit and the topics of the hearing. There will be a question and answer period between the Commissioners and the witnesses.

Public participation is invited and there will be an open-mike session for public comment at the conclusion of the afternoon session. Sign-up for the open-mike session will take place in the afternoon and will be on a first come first served basis. Each individual or group making an oral presentation will be limited to a total time of 3 minutes. Because of time constraints, parties with common interests are encouraged to designate a single speaker to represent their views.

DATES: Tuesday, November 16, 1999, 9 am–5 pm Pacific Time inclusive.

ADDRESSES: The hearing will be held at King County Courthouse, Snoqualmie Room, 516 3rd Avenue, Seattle, WA 98104. Public seating is limited to 75 to 100 seats and will be on a first come first served basis. Commercial public parking lots are available within the vicinity of the King County Courthouse.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the hearing or who wishes to submit oral or written comments should contact Kathy Michels, Administrative Officer for the U.S. Trade Deficit Review Commission, 444 North Capitol Street, NW, Suite 706, Washington, DC 20001; phone 202/624–1407; or via e-mail at: *tdrc@sso.org.*

Providing Oral or Written Comments at the Seattle Hearing

Copies of the draft meeting agenda, when available, may be obtained from the U.S. Trade Deficit Review Commission by going to the Commission's website at www.ustdrc.gov. The Commission requests that written public statements submitted for the record be brief and concise and limited to two pages in length. Written comments (at least 35 copies) must be received at the USTDRC Headquarters Office in Washington, DC by November 11, 1999. Comments received too close to the hearing date will normally be provided to the Commission Members at its hearing. Written comments may be provided up until the time of the hearing.

Authority: The Trade Deficit Review Commission Act, Pub. L. No. 105–277, Div. A, section 127, 112 Stat. 2681–547 (1998), established the Commission to study the nature, causes and consequences of the United States merchandise trade and current accounts deficits and report its findings to the President and the Congress. By statute, the Commission must hold at least 4 regional field hearings and 1 hearing in Washington, DC. This is the third in a series of field hearings to be conducted. The schedule of hearings is available at the U.S. Trade Deficit Review Commission website <www.ustdrc.gov>.

For the U.S. Trade Deficit Review Commission.

Dated at Washington, DC, November 2, 1999.

Allan I. Mendelowitz,

Executive Director, U.S. Trade Deficit Review Commission.

[FR Doc. 99–29023 Filed 11–4–99; 8:45 am]

BILLING CODE 6820–46–M

UNITED STATES INSTITUTE OF PEACE

Sunshine Act Meeting

Date/Time: Thursday, November 18, 1999, 9:00 a.m.–5:30 p.m.

Location: 1200 17th Street, NW, Suite 200—Conference Room, Washington, DC 20036.

Status: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

Agenda: November 1999 Board Meeting; Approval of Minutes of the Ninety-First Meeting (September 16, 1999) of the Board of Directors; Chairman's Report; President's Report; Committee Reports; Reports on Appropriation for Fiscal Year 2000 and Budget Request for Fiscal Year 2001; Other General Issues.

Contact: Dr. Sheryl Brown, Director, Office of Communications, Telephone: (202) 457–1700.

Dated: November 1, 1999.

Charles E. Nelson,

Vice President for Management and Finance, United States Institute of Peace.

[FR Doc. 99–29102 Filed 11–2–99; 4:43 pm]

BILLING CODE 6820–AR–M

Friday
November 5, 1999

Part II

Environmental Protection Agency

40 CFR Part 81

Rescinding Findings; 1-Hour Ozone Standard No Longer Applies In Certain Areas; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–6463–9]

Rescinding Findings That the 1-Hour Ozone Standard No Longer Applies in Certain Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On October 25, 1999, the EPA published the preamble to this proposed rule, proposing to rescind its prior findings that the 1-hour ozone national ambient air quality standard (NAAQS) and its accompanying designations and classifications no longer apply in certain areas. Under the proposal, the designations and classifications that previously applied in such areas with respect to the 1-hour standard would be reinstated. Today's action includes the proposed regulatory language for Part 81, as was noted in the published preamble would follow in a subsequent **Federal Register**.

DATES: Your comments must be submitted on or before December 1, 1999 in order to be considered.

ADDRESSES: You may comment in various ways:

On paper. Send paper comments (in duplicate, if possible) to the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–99–22, U.S. Environmental Protection Agency, 401 M St., SW, Room M–1500, Washington, DC 20460, telephone (202) 260–7548.

Electronically. Send electronic comments to EPA at: A-and-R-Docket@epamail.epa.gov. Avoid sending confidential business information. We accept comments as e-mail attachments or on disk. Either way, they must be in WordPerfect 5.1 or 6.0 or ASCII file format. Avoid the use of special characters and any form of encryption. You may file your comments on this proposed rule online at many Federal Depository Libraries. Be sure to identify all comments and data by Docket number A–99–22.

Public inspection. You may read the proposed rule (including paper copies of comments and data submitted electronically, minus anything claimed as confidential business information) at the Docket and Information Center. They are available for public inspection from 8 a.m. to 5:30 p.m., Monday through Wednesday, excluding legal holidays. We may charge a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: Questions about this proposal should be addressed to Annie Nikbakht (policy) or Barry Gilbert (air quality data), Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, Ozone Policy and Strategies Group, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–5246/5238 or e-mail to nikbakht.annie@epamail.epa.gov or gilbert.barry@epamail.epa.gov. To ask about policy matters or monitoring data for a specific geographic area, call one of these contacts:

Region I—Richard P. Burkhart (617) 918–1664,

Region II—Ray Werner (212) 637–3706,

Region III—Marcia Spink (215) 814–2104,

Region IV—Kay Prince (404) 562–9026,

Region V—Todd Nettesheim (312) 353–9153,

Region VI—Lt. Mick Cote (214) 665–7219,

Region VII—Royan Teter (913) 551–7609,

Region VIII—Tim Russ (303) 312–6479,

Region IX—Morris Goldberg (415) 744–1296,

Region X—William Puckett (206) 553–1702

SUPPLEMENTARY INFORMATION:

On October 25, 1999, the Agency published the preamble to this proposal. As noted in the **Federal Register** (64 FR 57424) on that day, today's action provides the regulatory language for Part 81.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: October 20, 1999.

Carol M. Browner,

Administrator.

For the reasons stated in the preamble, published on October 25, 1999 (64 FR 57424), part 81 of chapter I, title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. In § 81.301, the table entitled ''Alabama-Ozone (1–Hour standard)'' is revised to read as follows:

§ 81.301 Alabama.

* * * * * * *

ALABAMA-OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Birmingham Area:				
Jefferson County		Nonattainment		Marginal.
Shelby County		Nonattainment		Marginal.
Rest of State		Unclassifiable/Attainment		
Autauga County				
Baldwin County				
Barbour County				
Bibb County				
Blount County				
Bullock County				
Butler County				
Calhoun County				
Chambers County				
Cherokee County				
Chilton County				
Choctaw County				
Clarke County				
Clay County				

ALABAMA-OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Cleburne County				
Coffee County				
Colbert County				
Conecuh County				
Coosa County				
Covington County				
Crenshaw County				
Cullman County				
Dale County				
Dallas County				
De Kalb County				
Elmore County				
Escambia County				
Etowah County				
Fayette County				
Franklin County				
Geneva County				
Greene County				
Hale County				
Henry County				
Houston County				
Jackson County				
Lamar County				
Lauderdale County				
Lawrence County				
Lee County				
Limestone County				
Lowndes County				
Macon County				
Madison County				
Marengo County				
Marion County				
Marshall County				
Mobile County				
Monroe County				
Montgomery County				
Morgan County				
Perry County				
Pickens County				
Pike County				
Randolph County				
Russell County				
St. Clair County				
Sumter County				
Talladega County				
Tallapoosa County				
Tuscaloosa County				
Walker County				
Washington County				
Wilcox County				
Winston County				

[1] This date is November 15, 1990, unless otherwise noted.

* * * * * * *

3. In § 81.302, the table entitled ''Alaska—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.302 Alaska.

* * * * * * *

ALASKA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 08 Cook Inlet Intrastate	.....	Unclassifiable/Attainment		
Anchorage Election District				
Kenai Penninsula Election District				
Matanuska-Susitna Election District				
Seward Election District				

ALASKA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 09 Northern Alaska Intrastate	.....	Unclassifiable/Attainment		
Barrow Election District				
Denali Borough				
Fairbanks Election District				
Kobuk Election District				
Nome Election District				
North Slope Election District				
Northwest Arctic Borough				
Southeast Fairbanks Election District				
Upper Yukon Election District				
Yukon-Koyukuk Election District				
AQCR 10 South Central Alaska Intrastate	.....	Unclassifiable/Attainment		
Aleutian Islands Election District				
Aleutians East Borough				
Aleutians West Census				
Bethel Election District				
Bristol Bay Borough Election District				
Bristol Bay Election District				
Cordova-McCarthy Election District				
Dillingham Election District				
Kodiak Island Election District				
Kuskokwim Election District				
Lake and Peninsula Borough				
Valdez-Cordova Election District				
Wade Hampton Election District				
AQCR 11 Southeastern Alaska Intrastate	.....	Unclassifiable/Attainment		
Angoon Election District				
Haines Election District				
Juneau Election District				
Ketchikan Election District				
Outer Kethcikan Election District				
Prince Of Wales Election District				
Sitka Election District				
Skagway-Yakutat Election District				
Wrangell-Petersburg Election District				

[1] This date is November 15, 1990, unless otherwise noted.

* * * * * * *

4. In § 81.303, the table entitled ''Arizona—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.303 Arizona.

* * * * * * *

ARIZONA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Phoenix Area:				
Maricopa County (part)	11/15/90	Nonattainment	2/13/98	Serious.
The Urban Planning Area of the Maricopa Association of Governments is bounded as follows:				
1. Commencing at a point which is at the intersection of the eastern line of Range 7 East, Gila and Salt River Baseline and Meridian, and the southern line of Township 2 South, said point is the southeastern corner of the Maricopa Association of Governments Urban Planning Area, which is the point of beginning;				

ARIZONA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
2. Thence, proceed northerly along the eastern line of Range 7 East which is the common boundary between Maricopa and Pinal Counties, as described in Arizona Revised Statute Section 11–109, to a point where the eastern line of Range 7 East intersects the northern line of Township 1 North, said point is also the intersection of the Maricopa County Line and the Tonto National Forest Boundary, as established by Executive Order 869 dated July 1, 1908, as amended and showed on the U.S. Forest Service 1969 Planimetric Maps; 3. Thence, westerly along the northern line of Township 1 North to approximately the southwest corner of the southeast quarter of Section 35, Township 2 North, Range 7 East, said point being the boundary of the Tonto National Forest and Usery Mountain Semi-Regional Park; 4. Thence, northerly along the Tonto National Forest Boundary, which is generally the western line of the east half of Sections 26 and 35 of Township 2 North, Range 7 East, to a point which is where the quarter section line intersects with the northern line of Section 26, Township 2 North, Range 7 East, said point also being the northeast corner of the Usery Mountain Semi-Regional Park; 5. Thence, westerly along the Tonto National Forest Boundary, which is generally the south line of Sections 19, 20, 21 and 22 and the southern line of the west half of Section 23, Township 2 North, Range 7 East, to a point which is the southwest corner of Section 19, Township 2 North, Range 7 East; 6. Thence, northerly along the Tonto National Forest Boundary to a point where the Tonto National Forest Boundary intersects with the eastern boundary of the Salt River Indian Reservation, generally described as the center line of the Salt River Channel; 7. Thence, northeasterly and northerly along the common boundary of the Tonto National Forest and the Salt River Indian Reservation to a point which is the northeast corner of the Salt River Indian Reservation and the southeast corner of the Fort McDowell Indian Reservation, as shown on the plat dated July 22, 1902, and recorded with the U.S. Government on June 15, 1902; 8. Thence, northeasterly along the common boundary between the Tonto National Forest and the Fort McDowell Indian Reservation to a point which is the northeast corner of the Fort McDowell Indian Reservation; 9. Thence, southwesterly along the northern boundary of the Fort McDowell Indian Reservation, which line is a common boundary with the Tonto National Forest, to a point where the boundary intersects with the eastern line of Section 12, Township 4 North, Range 6 East;				

ARIZONA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
10. Thence, northerly along the eastern line of Range 6 East to a point where the eastern line of Range 6 East intersects with the southern line of Township 5 North, said line is the boundary between the Tonto National Forest and the east boundary of McDowell Mountain Regional Park;				
11. Thence, westerly along the southern line of Township 5 North to a point where the southern line intersects with the eastern line of Range 5 East which line is the boundary of Tonto National Forest and the north boundary of McDowell Mountain Regional Park;				
12. Thence, northerly along the eastern line of Range 5 East to a point where the eastern line of Range 5 East intersects with the northern line of Township 5 North, which line is the boundary of the Tonto National Forest;				
13. Thence, westerly along the northern line of Township 5 North to a point where the northern line of Township 5 North intersects with the easterly line of Range 4 East, said line is the boundary of Tonto National Forest;				
14. Thence, northerly along the eastern line of Range 4 East to a point where the eastern line of Range 4 East intersects with the northern line of Township 6 North, which line is the boundary of the Tonto National Forest;				
15. Thence, westerly along the northern line of Township 6 North to a point of intersection with the Maricopa-Yavapai County line, which is generally described in Arizona Revised Statute Section 11–109 as the center line of the Aqua Fria River (Also the north end of Lake Pleasant);				
16. Thence, southwesterly and southerly along the Maricopa-Yavapai County line to a point which is described by Arizona Revised Statute Section 11–109 as being on the center line of the Aqua Fria River, two miles southerly and below the mouth of Humbug Creek;				
17. Thence, southerly along the center line of Aqua Fria River to the intersection of the center line of the Aqua Fria River and the center line of Beardsley Canal, said point is generally in the northeast quarter of Section 17, Township 5 North, Range 1 East, as shown on the U.S. Geological Survey's Baldy Mountain, Arizona Quadrangle Map, 7.5 Minute series (Topographic), dated 1964;				
18. Thence, southwesterly and southerly along the center line of Beardsley Canal to a point which is the center line of Beardsley Canal where it intersects with the center line of Indian School Road;				
19. Thence, westerly along the center line of West Indian School Road to a point where the center line of West Indian School Road intersects with the center line of North Jackrabbit Trail;				

ARIZONA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
20. Thence, southerly along the center line of Jackrabbit Trail approximately nine and three-quarter miles to a point where the center line of Jackrabbit Trail intersects with the Gila River, said point is generally on the north-south quarter section line of Section 8, Township 1 South, Range 2 West;				
21. Thence, northeasterly and easterly up the Gila River to a point where the Gila River intersects with the northern extension of the western boundary of Estrella Mountain Regional Park, which point is generally the quarter corner of the northern line of Section 31, Township 1 North, Range 1 West;				
22. Thence, southerly along the extension of the western boundary and along the western boundary of Estrella Mountain Regional Park to a point where the southern extension of the western boundary of Estrella Mountain Regional Park intersects with the southern line of Township 1 South;				
23. Thence, easterly along the southern line of Township 1 South to a point where the south line of Township 1 South intersects with the western line of Range 1 East, which line is generally the southern boundary of Estrella Mountain Regional Park;				
24. Thence, southerly along the western line of Range 1 East to the southwest corner of Section 18, Township 2 South, Range 1 East, said line is the western boundary of the Gila River Indian Reservation;				
25. Thence, easterly along the southern boundary of the Gila River Indian Reservation which is the southern line of Sections 13, 14, 15, 16, 17, and 18, Township 2 South, Range 1 East, to the boundary between Maricopa and Pinal Counties as described in Arizona Revised Statues Section 11–109 and 11–113, which is the eastern line of Range 1 East;				
26. Thence, northerly along the eastern boundary of Range 1 East, which is the common boundary between Maricopa and Pinal Counties, to a point where the eastern line of Range 1 East intersects the Gila River;				
27. Thence, southerly up the Gila River to a point where the Gila River intersects with the southern line of Township 2 South; and				
28. Thence, easterly along the southern line of Township 2 South to the point of beginning which is a point where the southern line of Township 2 South intersects with the eastern line Range 7 East				
Tucson Area				
Pima County (part)				
Tuscon area	.....	Unclassifiable/Attainment		
Rest of State	.....	Unclassifiable/Attainment		
Apache County				
Cochise County				
Coconino County				
Gila County				
Graham County				
Greenlee County				
La Paz County				
Maricopa County (part) area outside of Phoenix				
Mohave County				
Navajo County				
Pima County (part) Remainder of county				
Pinal County				

ARIZONA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Santa Cruz County				
Yavapai County				
Yuma County				

[1] This date is November 15, 1990, unless otherwise noted.

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5. In § 81.304, the table entitled ''Arkansas—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.304 Arkansas.

* * * * * * *

ARKANSAS—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 016 Central Arkansas Intrastate (part) Pulaski County.	.....	Unclassifiable/Attainment		
AQCR 016 Central Arkansas Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Chicot County				
Clark County				
Cleveland County				
Conway County				
Dallas County				
Desha County				
Drew County				
Faulkner County				
Garland County				
Grant County				
Hot Spring County				
Jefferson County				
Lincoln County				
Lonoke County				
Perry County				
Pope County				
Saline County				
Yell County				
AQCR 017 Metropolitan Fort Smith Interstate	.....	Unclassifiable/Attainment		
Benton County				
Crawford County				
Sebastian County				
Washington County				
AQCR 018 Metropolitan Memphis Interstate	.....	Unclassifiable/Attainment		
Crittenden County				
AQCR 019 Monroe-El Dorado Interstate	.....	Unclassifiable/Attainment		
Ashley County				
Bradley County				
Calhoun County				
Nevada County				
Ouachita County				
Union County				
AQCR 020 Northeast Arkansas Intrastate	.....	Unclassifiable/Attainment		
Arkansas County				
Clay County				
Craighead County				
Cross County				
Greene County				
Independence County				
Jackson County				
Lawrence County				
Lee County				
Mississippi County				
Monroe County				
Phillips County				
Poinsett County				
Prairie County				
Randolph County				
Sharp County				
St. Francis County				

ARKANSAS—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
White County				
Woodruff County				
AQCR 021 Northwest Arkansas Intrastate	.....	Unclassifiable/Attainment		
Baxter County				
Boone County				
Carroll County				
Cleburne County				
Franklin County				
Fulton County				
Izard County				
Johnson County				
Logan County				
Madison County				
Marion County				
Montgomery County				
Newton County				
Pike County				
Polk County				
Scott County				
Searcy County				
Stone County				
Van Buren County				
AQCR 022 Shreveport-Texarkana-Tyler Interstate	.....	Unclassifiable/Attainment		
Columbia County				
Hempstead County				
Howard County				
Lafayette County				
Little River County				
Miller County				
Sevier County				

[1] This date is November 15, 1990, unless otherwise noted.

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6. In § 81.305, the table entitled ''California—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.305 California.

* * * * * * *

CALIFORNIA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Chico Area:				
Butte County	.....	Nonattainment	.....	Sec. 185A Area.[2]
Imperial County Area:				
Imperial County	.....	Nonattainment	.....	Sec. 185A Area.[2]
Los Angeles-South Coast Air Basin Area	.....	Nonattainment	.....	Extreme.
Los Angeles County (part)—that portion of Los Angeles County which lies south and west of a line described as follows:				
1. Beginning at the Los Angeles—San Bernardino County boundary and running west along the Township line common to Township 3 North and Township 2 North, San Bernardino Base and Meridian;				
2. then north along the range line common to Range 8 West and Range 9 West;				
3. then west along the Township line common to Township 4 North and Township 3 North;				
4. then north along the range line common to Range 12 West and Range 13 West to the southeast corner of Section 12, Township 5 North and Range 13 West;				

CALIFORNIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
5. then west along the south boundaries of Sections 12, 11, 10, 9, 8, and 7, Township 5 North and Range 13 West to the boundary of the Angeles National Forest which is collinear with the range line common to Range 13 West and Range 14 West; 6. then north and west along the Angeles National Forest boundary to the point of intersection with the Township line common to Township 7 North and Township 6 North (point is at the northwest corner of Section 4 in Township 6 North and Range 14 West); 7. then west along the Township line common to Township 7 North and Township 6 North; 8. then north along the range line common to Range 15 West and Range 16 West to the southeast corner of Section 13, Township 7 North and Range 16 West; 9. then along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 7 North and Range 16 West; 10. then north along the range line common to Range 16 West and Range 17 West to the north boundary of the Angeles National Forest (collinear with the Township line common to Township 8 North and Township 7 North); 11. then west along the Angeles National Forest boundary to the point of intersection with the south boundary of the Rancho La Liebre Land Grant; 12. then west and north along this land grant boundary to the Los Angeles-Kern County boundary.				
Orange County	.....	Nonattainment	.....	Extreme.
Riverside County (part)—that portion of Riverside County which lies to the west of a line described as follows: 1. Beginning at the Riverside—San Diego County boundary and running north along the range line common to Range 4 East and Range 3 East, San Bernardino Base and Meridian; 2. then east along the Township line common to Township 8 South and Township 7 South; 3. then north along the range line common to Range 5 East and Range 4 East; 4. then west along the Township line common to Township 6 South and Township 7 South to the southwest corner of Section 34, Township 6 South, Range 4 East; 5. then north along the west boundaries of Sections 34, 27, 22, 15, 10, and 3, Township 6 South, Range 4 East; 6. then west along the Township line common to Township 5 South and Township 6 South; 7. then north along the range line common to Range 4 East and Range 3 East; 8. then west along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 5 South, Range 3 East; 9. then north along the range line common to Range 2 East and Range 3 East; 10. then west along the Township line common to Township 4 South and Township 3 South to the intersection of the southwest boundary of partial Section 31, Township 3 South, Range 1 West; 11. then northwest along that line to the intersection with the range line common to Range 2 West and Range 1 West; 12. then north to the Riverside-San Bernardino County line,	.....	Nonattainment	.....	Extreme.

CALIFORNIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
San Bernardino County (part)—that portion of San Bernardino County which lies south and west of a line described as follows:. 1. Beginning at the San Bernardino—Riverside County boundary and running north along the range line common to Range 3 East and Range 2 East, San Bernardino Base and Meridian; 2. then west along the Township line common to Township 3 North and Township 2 North to the San Bernardino—Los Angeles County boundary;	.....	Nonattainment	.....	Extreme.
Monterey Bay Area	3/18/97	Attainment.		
Monterey County				
San Benito County				
Santa Cruz County				
Sacramento Metro Area	.....	Non-attainment	6/01/95	Severe-15.
El Dorado County (part): All portions of the county except that portion of El Dorado County within the drainage area naturally tributary to Lake Tahoe including said Lake.				
Placer County (part): All portions of the county except that portion of Placer County within the drainage area naturally tributary to Lake Tahoe including said Lake, plus that area in the vicinity of the head of the Truckee River described as follows: commencing at the point common to the aforementioned drainage area crestline and the line common to Townships 15 North and 16 North, Mount Diablo Base and Meridian (M.D.B.&M.), and following that line in a westerly direction to the northwest corner of Section 3, Township 15 North, Range 16 East, M.D.B.&M., thence south along the west line of Sections 3 and 10, Township 15 North, Range 16 East, M.D.B.&M., to the intersection with the said drainage area crestline, thence following the said drainage area boundary in a southeasterly, then northeasterly direction to and along the Lake Tahoe Dam, thence following the said drainage area crestline in a northeasterly, then northwesterly direction to the point of beginning.	.....	Nonattainment	6/01/95	Severe-15.
Sacramento County	.....	Nonattainment	6/01/95	Severe-15.
Solano County (part) That portion of Solano County which lies north and east of a line described as follows: Description of boundary in Solano county between San Francisco and Sacramento: Beginning at the intersection of the westerly boundary of Solano County and the ¼ section line running east and west through the center of Section 34; T. 6 N., R. 2 W., M.D.B.&M., thence east along said ¼ section line to the east boundary of Section 36, T. 6 N., R. 2 W., thence south ½ mile and east 2.0 miles, more or less, along the west and south boundary of Los Putos Rancho to the northwest corner of Section 4, T. 5 N., R. 1 W., thence east along a line common to T. 5 N. and T. 6 N. to the northeast corner of Section 3, T. 5 N., R. 1 E., thence south along section lines to the southeast corner of Section 10, T. 3 N., R. 1 E., thence east along section lines to the south ¼ corner of Section 8, T. 3 N., R. 2 E., thence east to the boundary between Solano and Sacramento Counties	.....	Nonattainment	6/01/95	Severe-15.
Sutter County (part—southern portion)South of a line connecting the northern border of Yolo Co. to the SW tip of Yuba Co. and continuing along the southern Yuba County border to Placer County.	.....	Nonattainment	6/01/95	Severe-15.
Yolo County	.....	Nonattainment	6/01/95	Severe-15.
San Diego Area:				
San Diego County	2/21/95	Nonattainment	2/21/95	Serious.

CALIFORNIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
San Francisco-Bay Area	8/10/98	Nonattainment	8/10/98/ 8/23/99	Not classified/Moderate under 23 U.S.C. 104(b)(2).
Alameda County	8/10/98	.....do	8/23/99	Do.
Contra Costa County	8/10/98	.....do	8/23/99	Do.
Marin County	8/10/98	.....do	8/23/99	Do.
Napa County	8/10/98	.....do	8/23/99	Do.
San Francisco County	8/10/98	.....do	8/23/99	Do.
San Mateo County	8/10/98	.....do	8/23/99	Do.
Santa Clara County	8/10/98	.....do	8/23/99	Do.
Solano County (part)	8/10/98	.....do	8/23/99	Do.
That portion of the county that lies south and west of the line described that follows: Description of boundary in Solano County between San Francisco and Sacramento: Beginning at the intersection at the westerly boundary of Solano County and the ¼ section line running east and west through the center of Section 34; T.6 N., R. 2 W., M.D.B.&M., thence east along said ½ section line to the east boundary of Section 36, T. 6 N., R. 2 W., thence south ½ mile and east 2.0 miles, more or less, along the west and south boundary of Los Putos Rancho to the northwest corner of Section 4, T. 5 N., R. 1 W, thence east along a line common to T. 5 N., and T. 6 N. to the northeast corner of Section 3, T. 5 N., R. 1 E., thence south along section lines to the southeast corner of Section 10 T. 3 N., R. 1 E., thence east along section lines to the south ¼ corner of Section 8 T. 3 N., R. 2 E., thence east to the boundary between Solano and Sacramento Counties.				
Sonoma County (part)	8/10/98	.....do	8/23/99	Do.

CALIFORNIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
That portion of Sonoma county which lies south and east of a line described as follows: Beginning at the south-easterly corner of the Rancho Estero Americano, being on the boundary line between Marin Sonoma Counties, California; thence running northerly along the easterly boundary line of said Rancho Estero Americano to the northeasterly corner thereof, being an angle corner in the westerly boundary line of Rancho Canada de Jonive, thence running along said boundary of Rancho Canada de Jonive westerly,; northerly and easterly to its intersection with the easterly line of Granton Road; thence running along the easterly and southerly line of Granton Road northerly and easterly to its intersection with the easterly line of Sullivan Road; thence running northerly along said easterly line of Sullivan Road to the southerly line of Green Valley Road; thence running easterly along the said southerly line of Green Valley Road and easterly along the southerly line of State Highway 116, to the westerly and northerly line of Vine Hill Road; thence running along the westerly and northerly line of Vine Hill Road, northerly and easterly to its intersection with the westerly line of Laguna Road; thence running northerly along the westerly line of Laguna Road and the northerly projection thereof to the northerly line of Trenton Road; thence running westerly along the northerly line of said Trenton Road to the easterly line of Trenton-Healdsburg Road to the easterly line of Eastside Road: thence running northerly along said easterly line of Eastside Road to its intersection with the southerly line of Ranco Sotoyome; thence running easterly along said southerly line of Rancho Sotoyome to its intersection with the Township line common to Townships 8 and 9 north, Mt. Diablo Base and Meridian; thence running easterly along said Township line to its intersection with the boundary line between Sonoma and Napa Counties, State of California.				
San Joaquin Valley Area:				
Fresno County	.....	Nonattainment	.....	Serious.
Kern County	.....	Nonattainment	.....	Serious.
Kings County	.....	Nonattainment	.....	Serious.
Madera County	.....	Nonattainment	.....	Serious.
Merced County	.....	Nonattainment	.....	Serious.
San Joaquin County	.....	Nonattainment	.....	Serious.
Stanislaus County	.....	Nonattainment	.....	Serious.
Tulare County	.....	Nonattainment	.....	Serious.
Santa Barbara-Santa Maria-Lompoc Area:				
Santa Barbara County	.....	Nonattainment	1/09/98	Serious.
Southeast Desert Modified AQMA Area	.....	Nonattainment	.....	Severe-17.
Los Angeles County (part)—that portion of Los Angeles County which lies north and east of a line described as follows:				
1. Beginning at the Los Angeles—San Bernardino County boundary and running west along the Township line common to Township 3 North and Township 2 North, San Bernardino Base and Meridian;				
2. then north along the range line common to Range 8 West and Range 9 West;				
3. then west along the Township line common to Township 4 North and Township 3 North;				
4. then north along the range line common to Range 12 West and Range 13 West to the southeast corner of Section 12, Township 5 North and Range 13 West;				

CALIFORNIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
5. then west along the south boundaries of Sections 12, 11, 10, 9, 8, and 7, Township 5 North and Range 13 West to the boundary of the Angeles National Forest which is collinear with the range line common to Range 13 West and Range 14 West; 6. then north and west along the Angeles National Forest boundary to the point of intersection with the Township line common to Township 7 North and Township 6 North (point is at the northwest corner of Section 4 in Township 6 North and Range 14 West); 7. then west along the Township line common to Township 7 North and Township 6 North; 8. then north along the range line common to Range 15 West and Range 16 West to the southeast corner of Section 13, Township 7 North and Range 16 West; 9. then along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 7 North and Range 16 West; 10. then north along the range line common to Range 16 West and Range 17 West to the north boundary of the Angeles National Forest (collinear with the Township line common to Township 8 North and Township 7 North); 11. then west along the Angeles National Forest boundary to the point of intersection with the south boundary of the Rancho La Liebre Land Grant; 12. then west and north along this land grant boundary to the Los Angeles-Kern County boundary.				
Riverside County (part)—that portion of Riverside County which lies to the east of a line described as follows: 1. Beginning at the Riverside—San Diego County boundary and running north along the range line common to Range 4 East and Range 3 East, San Bernardino Base and Meridian; 2. then east along the Township line common to Township 8 South and Township 7 South; 3. then north along the range line common to Range 5 East and Range 4 East; 4. then west along the Township line common to Township 6 South and Township 7 South to the southwest corner of Section 34, Township 6 South, Range 4 East; 5. then north along the west boundaries of Sections 34, 27, 22, 15, 10, and 3, Township 6 South, Range 4 East; 6. then west along the Township line common to Township 5 South and Township 6 South; 7. then north along the range line common to Range 4 East and Range 3 East; 8. then west along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 5 South, Range 3 East; 9. then north along the range line common to Range 2 East and Range 3 East; 10. then west along the Township line common to Township 4 South and Township 3 South to the intersection of the southwest boundary of partial Section 31, Township 3 South, Range 1 West; 11. then northwest along that line to the intersection with the range line common to Range 2 West and Range 1 West; 12. then north to the Riverside-San Bernardino County line, and that portion of Riverside County which lies to the west of a line described as follows: 13. beginning at the northeast corner of Section 4, Township 2 South, Range 5 East, a point on the boundary line common to Riverside and San Bernardino Counties;	.....	Nonattainment	.....	Severe-17.

CALIFORNIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
14. then southerly along section lines to the centerline of the Colorado River Aquaduct; 15. then southeasterly along the centerline of said Colorado River Aquaduct to the southerly line of Section 36, Township 3 South, Range 7 East; 16. then easterly along the Township line to the northeast corner of Section 6, Township 4 South, Range 9 East; 17. then southerly along the easterly line of Section 6 to the southeast coner thereof; 18. then easterly along section lines to the northeast corner of Section 10, Township 4 South, Range 9 East; 19. then southerly along section lines to the southeast corner of Section 15, Township 4 South, Range 9 East; 20. then easterly along the section lines to the northeast corner of Section 21, Township 4 South, Range 10 East; 21. then southerly along the easterly line of Section 21 to the southeast corner thereof; 22. then easterly along the northerly line of Section 27 to the northeast corner thereof; 23. then southerly along section lines to the southeast corner of Section 34, Township 4 South, Range 10 East; 24. then easterly along the Township line to the northeast corner of Section 2, Township 5 South, Range 10 East; 25. then southerly along the easterly line of Section 2, to the southeast corner thereof; 26. then easterly along the northerly line of Section 12 to the northeast corner thereof; 27. then southerly along the range line to the southwest corner of Section 18, Township 5 South, Range 11 East; 28. then easterly along section lines to the northeast corner of Section 24, Township 5 South, Range 11 East; 29. then southerly along the range line to the southeast corner of Section 36, Township 8 South, Range 11 East, a point on the boundary line common to Riverside and San Diego Counties.				
San Bernadino County (part)—that portion of San Bernardino County which lies north and east of a line described as follows: 1. Beginning at the San Bernardino—Riverside County boundary and running north along the range line common to Range 3 East and Range 2 East, San Bernardino Base and Meridian; 2. then west along the Township line common to Township 3 North and Township 2 North to the San Bernardino—Los Angeles County boundary; and that portion of San Bernardino County which lies south and west of a line described as follows: 3. latitude 35 degrees, 10 minutes north and longitude 115 degrees, 45 minutes west.	.....	Nonattainment:	.....	Severe-17.
Ventura County Area:				
Ventura County	.....	Nonattainment	.....	Severe-15.
Yuba City Area:				
Sutter County (part—northern portion)	.....	Nonattainment	.....	Sec. 185A Area.[2]
North of a line connecting the northern border of Yolo County to the SW tip of Yuba County and continuing along the southern Yuba County border to Placer County.				
Yuba County	.....	Nonattainment	.....	Sec. 185A Area.[2]
Great Basin Valleys Air Basin	.....	Unclassifiable/Attainment		
Alpine County				
Inyo County				
Mono County				

CALIFORNIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Lake County Air Basin		Unclassifiable/Attainment		
Lake County				
Lake Tahoe Air Basin		Unclassifiable/Attainment		
El Dorado County (part)				
Lake Tahoe Area: As described under 40 CFR 81.275.				
Placer County (part)				
Lake Tahoe Area: As described under 40 CFR 81.275.				
Mountain Counties Air Basin (Remainder of):				
Amador County		Unclassifiable/Attainment		
Calaveras County		Unclassifiable/Attainment		
Mariposa County		Unclassifiable/Attainment		
Nevada County		Unclassifiable/Attainment		
Plumas County		Unclassifiable/Attainment		
Sierra County		Unclassifiable/Attainment		
Tuolumne County		Unclassifiable/Attainment		
North Coast Air Basin		Unclassifiable/Attainment		
Del Norte County				
Humboldt County				
Mendocino County				
Sonoma County (part)				
Remainder of County				
Trinity County				
Northeast Plateau Air Basin		Unclassifiable/Attainment		
Lassen County				
Modoc County				
Siskiyou Couny				
Sacramento Valley Air Basin (Remainder of):				
Colusa County		Unclassifiable/Attainment		
Glenn County		Unclassifiable/Attainment		
Shasta County		Unclassifiable/Attainment		
Tehama County		Unclassifiable/Attainment		
South Central Coast Air Basin (Remainder of):				
Channel Islands		Unclassifiable/Attainment		
San Luis Obispo County		Unclassifiable/Attainment		
Southeast Desert NON–AQMA:				
Riverside County (part)				
Remainder of county		Unclassifiable/Attainment		
San Bernadino County (part)				
Remainder of county		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.
[2] An area designated as an ozone nonattainment area as of the date of enactment of the CAAA of the 1990 that did not violate the ozone NAAQS during the period of 1987–1989.

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7. In § 81.306, the table entitled ''Colorado—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.306 Colorado.

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COLORADO—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Denver—Boulder Area:				
Adams County (part)				
West of Kiowa Creek		Nonattainment		Sec. 185A Area.[2]
Arapahoe County (part)				
West of Kiowa Creek		Nonattainment		Sec. 185A Area.[2]
Boulder County (part)		Nonattainment		Sec. 185A Area.[2]
excluding Rocky Mtn. National Park				
Denver County		Nonattainment		Sec. 185A Area.[2]
Douglas County		Nonattainment		Sec. 185A Area.[2]
Jefferson County		Nonattainment		Sec. 185A Area.[2]
State AQCR 01		Unclassifiable/Attainment		
Logan County				
Morgan County				
Phillips County				
Sedgwick County				

COLORADO—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Washington County				
Yuma County				
State AQCR 02	.....	Unclassifiable/Attainment		
Larimer County				
Weld County				
State AQCR 03 (Remainder of)	.....	Unclassifiable/Attainment		
Adams County (part)				
East of Kiowa Creek				
Arapahoe County (part)				
East of Kiowa Creek				
Boulder County (part)				
Rocky Mtn. National Park Only				
Clear Creek County				
Gilpin County				
State AQCR 11	.....	Unclassifiable/Attainment		
Garfield County				
Mesa County				
Moffat County				
Rio Blanco County				
Rest of State	.....	Unclassifiable/Attainment		
Alamosa County				
Archuleta County				
Baca County				
Bent County				
Chaffee County				
Cheyenne County				
Conejos County				
Costilla County				
Crowley County				
Custer County				
Delta County				
Dolores County				
Eagle County				
El Paso County				
Elbert County				
Fremont County				
Grand County				
Gunnison County				
Hinsdale County				
Huerfano County				
Jackson County				
Kiowa County				
Kit Carson County				
La Plata County				
Lake County				
Las Animas County				
Lincoln County				
Mineral County				
Montezuma County				
Montrose County				
Otero County				
Ouray County				
Park County				
Pitkin County				
Prowers County				
Pueblo County				
Rio Grande County				
Routt County				
Saguache County				
San Juan County				
San Miguel County				
Summit County				
Teller County				

[1] This date is November 15, 1990, unless otherwise noted.
[2] An area designated as an ozone nonattainment area as of the date of enactment of the CAAA of the 1990 that did not violate the ozone NAAQS during the period of 1987–1989.

* * * * *

8. In § 81.307, the table entitled ''Connecticut—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.307 Connecticut.

* * * * *

CONNECTICUT—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Greater Connecticut Area:				
Farfield County (part)		Nonattainment		Serious.
Shelton City				
Hartford County		Nonattainment		Serious.
Litchfield County (part)		Nonattainment		Serious.
all cities and townships except: Bridgewater Town, New Milford Town				
Middlesex County		Nonattainment		Serious.
New Haven County		Nonattainment		Serious.
New London County		Nonattainment		Serious.
Tolland County		Nonattainment		Serious.
Windham County		Nonattainment		Serious.
New York—N. New Jersey-Long Island Area:				
Fairfield County (part)		Nonattainment		Severe-17.
all cities and towns except Shelton City				
Litchfield County (part)		Nonattainment		Severe-17.
Bridgewater Town, New Milford Town				

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

9. In § 81.308, the table entitled ''Delaware—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.308 Delaware.

* * * * *

DELAWARE—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Philadelphia-Wilmington-Trenton Area:				
Kent County		Nonattainment		Severe-15.
New Castle County		Nonattainment		Severe-15.
Sussex County Area:	xl	xl		
Sussex County	1/6/92	Nonattainment	1/6/92	Marginal.

[1] This date is November 15, 1990, unless otherwise noted.

* * * * * *

10. In § 81.309, the table entitled ''District of Columbia—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.309 District of Columbia.

* * * * * * *

DISTRICT OF COLUMBIA—OZONE (1-HOUR STANDARD)

Designated area	Designation	Type	Classification	
	Date [1]		Date [1]	Type
Washington Area				
Washington Entire Area		Nonattainment		Serious.

[1] This date is November 15, 1990, unless otherwise noted.

* * * * * * *

11. In § 81.310, the table entitled ''Florida—Ozone (1–Hour Standard)'' is revised to read as follows:

§ 81.310 Florida.

* * * * * * *

FLORIDA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Alachua County				
Baker County				
Bay County				
Bradford County				
Brevard County				
Broward County	4/25/95			
Calhoun County				
Charlotte County				
Citrus County				
Clay County				
Collier County				
Columbia County				
Dade County	4/25/95			
De Soto County				
Dixie County				
Duval County	3/6/95			
Escambia County				
Flagler County				
Franklin County				
Gadsden County				
Gilchrist County				
Glades County				
Gulf County				
Hamilton County				
Hardee County				
Hendry County				
Hernando County				
Highlands County				
Hillsborough County	2/05/96			
Holmes County				
Indian River County				
Jackson County				
Jefferson County				
Lafayette County				
Lake County				
Lee County				
Leon County				
Levy County				
Liberty County				
Madison County				
Manatee County				
Marion County				
Martin County				
Monroe County				
Nassau County				
Okaloosa County				
Okeechobee County				
Orange County				
Osceola County				
Palm Beach County	4/25/95			
Pasco County				
Pinellas County	02/05/96			
Polk County				
Putnam County				
Santa Rosa County				
Sarasota County				
Seminole County				
St. Johns County				
St. Lucie County				
Sumter County				
Suwannee County				
Taylor County				
Union County				
Volusia County				
Wakulla County				
Walton County				
Washington County				

[1] This date is November 15, 1990, unless otherwise noted.

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12. In § 81.311, the table entitled ''Georgia—-Ozone (1–Hour Standard)'' is revised to read as follows:

§ 81.311 Georgia.

* * * * * *

GEORGIA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Atlanta Area:				
Cherokee County		Nonattainment		Serious.
Clayton County		Nonattainment		Serious.
Cobb County		Nonattainment		Serious.
Coweta County		Nonattainment		Serious.
De Kalb County		Nonattainment		Serious.
Douglas County		Nonattainment		Serious.
Fayette County		Nonattainment		Serious.
Forsyth County		Nonattainment		Serious.
Fulton County		Nonattainment		Serious.
Gwinnett County		Nonattainment		Serious.
Henry County		Nonattainment		Serious.
Paulding County		Nonattainment		Serious.
Rockdale County		Nonattainment		Serious.
Rest of State		Unclassifiable/Attainment		
Appling County				
Atkinson County				
Bacon County				
Baker County				
Baldwin County				
Banks County				
Barrow County				
Bartow County				
Ben Hill County				
Berrien County				
Bibb County				
Bleckley County				
Brantley County				
Brooks County				
Bryan County				
Bulloch County				
Burke County				
Butts County				
Calhoun County				
Camden County				
Candler County				
Carroll County				
Catoosa County				
Charlton County				
Chatham County				
Chattahoochee County				
Chattooga County				
Clarke County				
Clay County				
Clinch County				
Coffee County				
Colquitt County				
Columbia County				
Cook County				
Crawford County				
Crisp County				
Dade County				
Dawson County				
Decatur County				
Dodge County				
Dooly County				
Dougherty County				
Early County				
Echols County				
Effingham County				
Elbert County				
Emanuel County				
Evans County				
Fannin County				
Floyd County				
Franklin County				

GEORGIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Gilmer County				
Glascock County				
Glynn County				
Gordon County				
Grady County				
Greene County				
Habersham County				
Hall County				
Hancock County				
Haralson County				
Harris County				
Hart County				
Heard County				
Houston County				
Irwin County				
Jackson County				
Jasper County				
Jeff Davis County				
Jefferson County				
Jenkins County				
Johnson County				
Jones County				
Lamar County				
Lanier County				
Laurens County				
Lee County				
Liberty County				
Lincoln County				
Long County				
Lowndes County				
Lumpkin County				
Macon County				
Madison County				
Marion County				
McDuffie County				
McIntosh County				
Meriwether County				
Miller County				
Mitchell County				
Monroe County				
Montgomery County				
Morgan County				
Murray County				
Muscogee County				
Newton County				
Oconee County				
Oglethorpe County				
Peach County				
Pickens County				
Pierce County				
Pike County				
Polk County				
Pulaski County				
Putnam County				
Quitman County				
Rabun County				
Randolph County				
Richmond County				
Schley County				
Screven County				
Seminole County				
Spalding County				
Stephens County				
Stewart County				
Sumter County				
Talbot County				
Taliaferro County				
Tattnall County				
Taylor County				
Telfair County				

GEORGIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Terrell County				
Thomas County				
Tift County				
Toombs County				
Towns County				
Treutlen County				
Troup County				
Turner County				
Twiggs County				
Union County				
Upson County				
Walker County				
Walton County				
Ware County				
Warren County				
Washington County				
Wayne County				
Webster County				
Wheeler County				
White County				
Whitfield County				
Wilcox County				
Wilkes County				
Wilkinson County				
Worth County				

[1] This date is November 15, 1990, unless otherwise noted.

* * * * * * *

13. In § 81.312, the table entitled ''Hawaii—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.312 Hawaii.

* * * * * * *

HAWAII—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide	.....	Unclassifiable/Attainment		
Hawaii County				
Honolulu County				
Kalawao				
Kauai County				
Maui County				

[1] This date is November 15, 1990, unless otherwise noted.

* * * * * * *

14. In § 81.313, the table entitled ''Idaho—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.313 Idaho.

* * * * * * *

IDAHO—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 61 Eastern Idaho Intrastate	.....	Unclassifiable/Attainment		
Bannock County				
Bear Lake County				
Bingham County				
Bonneville County				
Butte County				
Caribou County				
Clark County				
Franklin County				
Fremont County				

IDAHO—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Jefferson County				
Madison County				
Oneida County				
Power County				
Teton County				
AQCR 62 E Washington-N Idaho Interstate	.....	Unclassifiable/Attainment		
Benewah County				
Kootenai County				
Latah County				
Nez Perce County				
Shoshone County				
AQCR 63 Idaho Intrastate	.....	Unclassifiable/Attainment		
Adams County				
Blaine County				
Boise County				
Bonner County				
Boundary County				
Camas County				
Cassia County				
Clearwater County				
Custer County				
Elmore County				
Gem County				
Gooding County				
Idaho County				
Jerome County				
Lemhi County				
Lewis County				
Lincoln County				
Minidoka County				
Owyhee County				
Payette County				
Twin Falls County				
Valley County				
Washington County				
AQCR 64 Metropolitan Boise Interstate	.....	Unclassifiable/Attainment		
Ada County				
Canyon County				

[1] This date is November 15, 1990, unless otherwise noted.

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15. In § 81.314, the table entitled ''Illinois—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.314 Illinois.

* * * * * * *

ILLINOIS—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Chicago-Gary-Lake County Area:				
Cook County	.....	Nonattainment	.....	Severe-17.
Du Page County	.....	Nonattainment	.....	Severe-17.
Grundy County (part)				
Aux Sable Township	.....	Nonattainment	.....	Severe-17.
Goose Lake Township	.....	Nonattainment	.....	Severe-17.
Kane County	.....	Nonattainment	.....	Severe-17.
Kendall County (part)				
Oswego Township	.....	Nonattainment	.....	Severe-17.
Lake County	.....	Nonattainment	.....	Severe-17.
McHenry County	.....	Nonattainment	.....	Severe-17.
Will County	.....	Nonattainment	.....	Severe-17.
Jersey County Area:				
Jersey County	.....	*Attainment		
St. Louis Area:				
Madison County	.....	Nonattainment	.....	Moderate.
Monroe County	.....	Nonattainment	.....	Moderate.
St. Clair County	.....	Nonattainment	.....	Moderate.

ILLINOIS—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Adams County		Unclassifiable/Attainment		
Alexander County		Unclassifiable/Attainment		
Bond County		Unclassifiable/Attainment		
Boone County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Bureau County		Unclassifiable/Attainment		
Calhoun County		Unclassifiable/Attainment		
Carroll County		Unclassifiable/Attainment		
Cass County		Unclassifiable/Attainment		
Champaign County		Unclassifiable/Attainment		
Christian County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		
Clinton County		Unclassifiable/Attainment		
Coles County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Cumberland County		Unclassifiable/Attainment		
De Kalb County		Unclassifiable/Attainment		
De Witt County		Unclassifiable/Attainment		
Douglas County		Unclassifiable/Attainment		
Edgar County		Unclassifiable/Attainment		
Edwards County		Unclassifiable/Attainment		
Effingham County		Unclassifiable/Attainment		
Fayette County		Unclassifiable/Attainment		
Ford County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Gallatin County		Unclassifiable/Attainment		
Greene County		Unclassifiable/Attainment		
Grundy County (part)				
All townships except Aux Sable and Goose Lake		Unclassifiable/Attainment		
Hamilton County		Unclassifiable/Attainment		
Hancock County		Unclassifiable/Attainment		
Hardin County		Unclassifiable/Attainment		
Henderson County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Iroquois County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jasper County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Jo Daviess County		Unclassifiable/Attainment		
Johnson County		Unclassifiable/Attainment		
Kankakee County		Unclassifiable/Attainment		
Kendall County (part)				
All townships except Oswego		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
La Salle County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Lee County		Unclassifiable/Attainment		
Livingston County		Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Macon County		Unclassifiable/Attainment		
Macoupin County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Marshall County		Unclassifiable/Attainment		
Mason County		Unclassifiable/Attainment		
Massac County		Unclassifiable/Attainment		
McDonough County		Unclassifiable/Attainment		
McLean County		Unclassifiable/Attainment		
Menard County		Unclassifiable/Attainment		
Mercer County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Moultrie County		Unclassifiable/Attainment		
Ogle County		Unclassifiable/Attainment		
Peoria County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Piatt County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Pope County		Unclassifiable/Attainment		

ILLINOIS—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Pulaski County	.....	Unclassifiable/Attainment		
Putnam County	.....	Unclassifiable/Attainment		
Randolph County	.....	Unclassifiable/Attainment		
Richland County	.....	Unclassifiable/Attainment		
Rock Island County	.....	Unclassifiable/Attainment		
Saline County	.....	Unclassifiable/Attainment		
Sangamon County	.....	Unclassifiable/Attainment		
Schuyler County	.....	Unclassifiable/Attainment		
Scott County	.....	Unclassifiable/Attainment		
Shelby County	.....	Unclassifiable/Attainment		
Stark County	.....	Unclassifiable/Attainment		
Stephenson County	.....	Unclassifiable/Attainment		
Tazewell County	.....	Unclassifiable/Attainment		
Union County	.....	Unclassifiable/Attainment		
Vermilion County	.....	Unclassifiable/Attainment		
Wabash County	.....	Unclassifiable/Attainment		
Warren County	.....	Unclassifiable/Attainment		
Washington County	.....	Unclassifiable/Attainment		
Wayne County	.....	Unclassifiable/Attainment		
White County	.....	Unclassifiable/Attainment		
Whiteside County	.....	Unclassifiable/Attainment		
Williamson County	.....	Unclassifiable/Attainment		
Winnebago County	.....	Unclassifiable/Attainment		
Woodford County	.....	Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.
* April 13, 1995.

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16. In § 81.315, the table entitled ''Indiana—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.315 Indiana.

* * * * * * *

INDIANA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Chicago-Gary-Lake County Area:				
Lake County	.....	Nonattainment	.....	Severe-17
Porter County	.....	Nonattainment	.....	Severe-17
Evansville Area:				
Vanderburgh County	12/09/97	Attainment		
Indianapolis Area:				
Marion County	11/30/94	Attainment		
Louisville Area:				
Clark County	.....	Nonattainment	.....	Moderate [2]
Floyd County	.....	Nonattainment	.....	Moderate [2]
South Bend-Elkhart Area:				
Elkhart County	11/30/94	Attainment		
St Joseph County	11/30/94	Attainment		
Allen County	.....	Unclassifiable/Attainment		
Adams County	.....	Unclassifiable/Attainment		
Bartholomew County	.....	Unclassifiable/Attainment		
Benton County	.....	Unclassifiable/Attainment		
Blackford County	.....	Unclassifiable/Attainment		
Boone County	.....	Unclassifiable/Attainment		
Brown County	.....	Unclassifiable/Attainment		
Carroll County	.....	Unclassifiable/Attainment		
Cass County	.....	Unclassifiable/Attainment		
Clay County	.....	Unclassifiable/Attainment		
Clinton County	.....	Unclassifiable/Attainment		
Crawford County	.....	Unclassifiable/Attainment		
Daviess County	.....	Unclassifiable/Attainment		
De Kalb County	.....	Unclassifiable/Attainment		
Dearborn County	.....	Unclassifiable/Attainment		
Decatur County	.....	Unclassifiable/Attainment		
Delaware County	.....	Unclassifiable/Attainment		
Dubois County	.....	Unclassifiable/Attainment		

INDIANA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Fayette County		Unclassifiable/Attainment		
Fountain County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Gibson County		Unclassifiable/Attainment		
Grant County		Unclassifiable/Attainment		
Greene County		Unclassifiable/Attainment		
Hamilton County		Unclassifiable/Attainment		
Hancock County		Unclassifiable/Attainment		
Harrison County		Unclassifiable/Attainment		
Hendricks County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Howard County		Unclassifiable/Attainment		
Huntington County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jasper County		Unclassifiable/Attainment		
Jay County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Jennings County		Unclassifiable/Attainment		
Johnson County		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
Kosciusko County		Unclassifiable/Attainment		
La Porte County		Unclassifiable/Attainment		
Lagrange County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		
Marshall County		Unclassifiable/Attainment		
Martin County		Unclassifiable/Attainment		
Miami County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Newton County		Unclassifiable/Attainment		
Noble County		Unclassifiable/Attainment		
Ohio County		Unclassifiable/Attainment		
Orange County		Unclassifiable/Attainment		
Owen County		Unclassifiable/Attainment		
Parke County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Posey County		Unclassifiable/Attainment		
Pulaski County		Unclassifiable/Attainment		
Putnam County		Unclassifiable/Attainment		
Randolph County		Unclassifiable/Attainment		
Ripley County		Unclassifiable/Attainment		
Rush County		Unclassifiable/Attainment		
Scott County		Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Spencer County		Unclassifiable/Attainment		
Starke County		Unclassifiable/Attainment		
Steuben County		Unclassifiable/Attainment		
Sullivan County		Unclassifiable/Attainment		
Switzerland County		Unclassifiable/Attainment		
Tippecanoe County		Unclassifiable/Attainment		
Tipton County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
Vermillion County		Unclassifiable/Attainment		
Vigo County		Unclassifiable/Attainment		
Wabash County		Unclassifiable/Attainment		
Warren County		Unclassifiable/Attainment		
Warrick County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wayne County		Unclassifiable/Attainment		
Wells County		Unclassifiable/Attainment		
White County		Unclassifiable/Attainment		
Whitley County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.
[2] Attainment date extended to November 15, 1997.

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17. In § 81.316, the table entitled ''Iowa—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.316 Iowa.

* * * * * * *

IOWA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide	.....	Unclassifiable/Attainment		
Adair County				
Adams County				
Allamakee County				
Appanoose County				
Audubon County				
Benton County				
Black Hawk County				
Boone County				
Bremer County				
Buchanan County				
Buena Vista County				
Butler County				
Calhoun County				
Carroll County				
Cass County				
Cedar County				
Cerro Gordo County				
Cherokee County				
Chickasaw County				
Clarke County				
Clay County				
Clayton County				
Clinton County				
Crawford County				
Dallas County				
Davis County				
Decatur County				
Delaware County				
Des Moines County				
Dickinson County				
Dubuque County				
Emmet County				
Fayette County				
Floyd County				
Franklin County				
Fremont County				
Greene County				
Grundy County				
Guthrie County				
Hamilton County				
Hancock County				
Hardin County				
Harrison County				
Henry County				
Howard County				
Humboldt County				
Ida County				
Iowa County				
Jackson County				
Jasper County				
Jefferson County				
Johnson County				
Jones County				
Keokuk County				
Kossuth County				
Lee County				
Linn County				
Louisa County				
Lucas County				
Lyon County				
Madison County				
Mahaska County				
Marion County				
Marshall County				

IOWA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Mills County				
Mitchell County				
Monona County				
Monroe County				
Montgomery County				
Muscatine County				
O'Brien County				
Osceola County				
Page County				
Palo Alto County				
Plymouth County				
Pocahontas County				
Polk County				
Pottawattamie County				
Poweshiek County				
Ringgold County				
Sac County				
Scott County				
Shelby County				
Sioux County				
Story County				
Tama County				
Taylor County				
Union County				
Van Buren County				
Wapello County				
Warren County				
Washington County				
Wayne County				
Webster County				
Winnebago County				
Winneshiek County				
Woodbury County				
Worth County				
Wright County				

[1] This date is November 15, 1990, unless otherwise noted.

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18. In § 81.317, the table entitled ''Kansas—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.317 Kansas.

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KANSAS—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Allen County		Unclassifiable/Attainment		
Anderson County		Unclassifiable/Attainment		
Atchison County		Unclassifiable/Attainment		
Barber County		Unclassifiable/Attainment		
Barton County		Unclassifiable/Attainment		
Bourbon County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Butler County		Unclassifiable/Attainment		
Chase County		Unclassifiable/Attainment		
Chautauqua County		Unclassifiable/Attainment		
Cherokee County		Unclassifiable/Attainment		
Cheyenne County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		
Cloud County		Unclassifiable/Attainment		
Coffey County		Unclassifiable/Attainment		
Comanche County		Unclassifiable/Attainment		
Cowley County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Decatur County		Unclassifiable/Attainment		
Dickinson County		Unclassifiable/Attainment		

KANSAS—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Doniphan County		Unclassifiable/Attainment		
Douglas County		Unclassifiable/Attainment		
Edwards County		Unclassifiable/Attainment		
Elk County		Unclassifiable/Attainment		
Ellis County		Unclassifiable/Attainment		
Ellsworth County		Unclassifiable/Attainment		
Finney County		Unclassifiable/Attainment		
Ford County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Geary County		Unclassifiable/Attainment		
Gove County		Unclassifiable/Attainment		
Graham County		Unclassifiable/Attainment		
Grant County		Unclassifiable/Attainment		
Gray County		Unclassifiable/Attainment		
Greeley County		Unclassifiable/Attainment		
Greenwood County		Unclassifiable/Attainment		
Hamilton County		Unclassifiable/Attainment		
Harper County		Unclassifiable/Attainment		
Harvey County		Unclassifiable/Attainment		
Haskell County		Unclassifiable/Attainment		
Hodgeman County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Jewell County		Unclassifiable/Attainment		
Johnson County	7/23/92	Unclassifiable/Attainment		
Kearny County		Unclassifiable/Attainment		
Kingman County		Unclassifiable/Attainment		
Kiowa County		Unclassifiable/Attainment		
Labette County		Unclassifiable/Attainment		
Lane County		Unclassifiable/Attainment		
Leavenworth County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Linn County		Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Lyon County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Marshall County		Unclassifiable/Attainment		
McPherson County		Unclassifiable/Attainment		
Meade County		Unclassifiable/Attainment		
Miami County		Unclassifiable/Attainment		
Mitchell County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morris County		Unclassifiable/Attainment		
Morton County		Unclassifiable/Attainment		
Nemaha County		Unclassifiable/Attainment		
Neosho County		Unclassifiable/Attainment		
Ness County		Unclassifiable/Attainment		
Norton County		Unclassifiable/Attainment		
Osage County		Unclassifiable/Attainment		
Osborne County		Unclassifiable/Attainment		
Ottawa County		Unclassifiable/Attainment		
Pawnee County		Unclassifiable/Attainment		
Phillips County		Unclassifiable/Attainment		
Pottawatomie County		Unclassifiable/Attainment		
Pratt County		Unclassifiable/Attainment		
Rawlins County		Unclassifiable/Attainment		
Reno County		Unclassifiable/Attainment		
Republic County		Unclassifiable/Attainment		
Rice County		Unclassifiable/Attainment		
Riley County		Unclassifiable/Attainment		
Rooks County		Unclassifiable/Attainment		
Rush County		Unclassifiable/Attainment		
Russell County		Unclassifiable/Attainment		
Saline County		Unclassifiable/Attainment		
Scott County		Unclassifiable/Attainment		
Sedgwick County		Unclassifiable/Attainment		
Seward County		Unclassifiable/Attainment		
Shawnee County		Unclassifiable/Attainment		
Sheridan County		Unclassifiable/Attainment		
Sherman County		Unclassifiable/Attainment		

KANSAS—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Smith County		Unclassifiable/Attainment		
Stafford County		Unclassifiable/Attainment		
Stanton County		Unclassifiable/Attainment		
Stevens County		Unclassifiable/Attainment		
Sumner County		Unclassifiable/Attainment		
Thomas County		Unclassifiable/Attainment		
Trego County		Unclassifiable/Attainment		
Wabaunsee County		Unclassifiable/Attainment		
Wallace County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wichita County		Unclassifiable/Attainment		
Wilson County		Unclassifiable/Attainment		
Woodson County		Unclassifiable/Attainment		
Wyandotte County	7/23/92	Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

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19. In § 81.318, the table entitled ''Kentucky—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.318 Kentucky.

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KENTUCKY—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Cincinnati-Hamilton Area:				
Boone County		Nonattainment		Moderate.[2]
Campbell County		Nonattainment		Moderate.[2]
Kenton County		Nonattainment		Moderate.[2]
Edmonson County Area:				
Edmonson County	1/3/95	Unclassifiable/Attainment		
Louisville Area:				

KENTUCKY—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Bullitt County (part): The area boundary is as follows: Beginning at the intersection of Ky 1020 and the Jefferson-Bullitt County Line proceeding to the east along the county line to the intersection of county road 567 and the Jefferson-Bullitt County Line; proceeding south on county road 567 to the junction with Ky 1116 (also known as Zoneton Road); proceeding to the south on Ky 1116 to the junction with Hebron Lane; proceeding to the south on Hebron Lane to Cedar Creek; proceeding south on Cedar Creek to the confluence of Floyds Fork turning southeast along a creek that meets Ky 44 at Stallings Cemetery; proceeding west along Ky 44 to the eastern most point in the Shepherdsville city limits; proceeding south along the Shepherdsville city limits to the Salt River and west to a point across the river from Mooney Lane; proceeding south along Mooney Lane to the junction of Ky 480; proceeding west on Ky 480 to the junction with Ky 2237; proceeding south on Ky 2237 to the junction with Ky 61 and proceeding north on Ky 61 to the junction with Ky 1494; proceeding south on Ky 1494 to the junction with the perimeter of the Fort Knox Military Reservation; proceeding north along the military reservation perimeter to Castleman Branch Road; proceeding north on Castleman Branch Road to Ky 44; proceeding a very short distance west on Ky 44 to a junction with Ky 2723; proceeding north on Ky 2723 to the junction of Chillicoop Road; proceeding northeast on Chillicoop Road to the junction of KY 2673; proceeding north on KY 2673 to the junction of KY 1020; proceeding north on KY 1020 to the beginning; unless a road or intersection of two or more roads defines the nonattainment boundary, the area shall extend outward 750 feet from the center of the road or intersection.	.....	Nonattainment	.....	Moderate.[2]
Jefferson County	.....	Nonattainment	.....	Moderate.[2]

KENTUCKY—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Oldham County (part): The area boundary is as follows: Beginning at the intersection of the Oldham-Jefferson County Line with the southbound lane of Interstate 71; proceeding to the northeast along the southbound lane of Interstate 71 to the intersection of Ky 329 and the southbound lane of Interstate 71; proceeding to the northwest on Ky 329 to the intersection of Zaring Road and Ky 329; proceeding to the east-northeast on Zaring Road to the junction of Cedar Point Road and Zaring Road; proceeding to the north-northeast on Cedar Point Road to the junction of Ky 393 and Cedar Point Road; proceeding to the south-southeast on Ky 393 to the junction of (the access road on the north side of Reformatory Lake and the Reformatory); proceeding to the east-northeast on the access road to the junction with Dawkins Lane and the access road; proceeding to follow an electric power line east-northeast across from the junction of county road 746 and Dawkins Lane to the east-northeast across Ky 53 on to the La Grange Water Filtration Plant; proceeding on to the east-southeast along the power line then south across Fort Pickens Road to a power substation on Ky 146; proceeding along the power line south across Ky 146 and the Seaboard System Railroad track to adjoin the incorporated city limits of La Grange; then proceeding east then south along the La Grange city limits to a point abutting the north side of Ky 712; proceeding east-southeast on Ky 712 to the junction of Massie School Road and Ky 712; proceeding to the south-southwest on Massie School Road to the intersection of Massie School Road and Zale Smith Road; proceeding northeast on Zale Smith Road to the junction of KY 53 and Zale Smith Road; proceeding on Ky 53 to the north-northwest to the junction of New Moody Lane and Ky 53; proceeding on New Moody Lane to the south-southwest until meeting the city limits of La Grange; then briefly proceeding north following the La Grange city limits to the intersection of the northbound lane of Interstate 71 and the La Grange city limits; proceeding southwest on the north-bound lane of Interstate 71 until inter-secting with the North Fork of Currys Fork; proceeding south-southwest beyond the con-fluence of Currys Fork to the south-southwest beyond the confluence of Floyds Fork continuing on to the Oldham-Jefferson County Line; proceeding northwest along the Oldham-Jefferson County Line to the beginning; unless a road or intersection of two or more roads defines the nonattainment boundary, the area shall extend outward 750 feet from the center of the road or intersection.	.....	Nonattainment	.....	Moderate.[2]
Owensboro Area:				
Daviess County	1/3/95	Unclassifiable/Attainment		
Hancock County	1/3/95	Unclassifiable/Attainment		
The area boundary is as follows: Beginning at the Intersection of U.S. 60 and the Hancock-Daviess County Line; proceeding east along U.S. 60 to the intersection of Yellow Creek and U.S. 60; proceeding north and west along Yellow Creek to the confluence of the Ohio River; proceeding west along the Ohio River to the confluence of Blackford Creek; proceeding south and east along Blackford Creek to the beginning.				
Adair County	.....	Unclassifiable/Attainment		
Allen County	.....	Unclassifiable/Attainment		
Anderson County	.....	Unclassifiable/Attainment		
Ballard County	.....	Unclassifiable/Attainment		
Barren County	.....	Unclassifiable/Attainment		
Bath County	.....	Unclassifiable/Attainment		

KENTUCKY—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Bell County	.....	Unclassifiable/Attainment		
Bourbon County	.....	Unclassifiable/Attainment		
Boyd County	6/29/95	Unclassifiable/Attainment		
Boyle County	.....	Unclassifiable/Attainment		
Bracken County	.....	Unclassifiable/Attainment		
Breathitt County	.....	Unclassifiable/Attainment		
Breckinridge County	.....	Unclassifiable/Attainment		
Bullitt County (part)				
Remainder of county	.....	Unclassifiable/Attainment		
Butler County	.....	Unclassifiable/Attainment		
Caldwell County	.....	Unclassifiable/Attainment		
Calloway County	.....	Unclassifiable/Attainment		
Carlisle County	.....	Unclassifiable/Attainment		
Carroll County	.....	Unclassifiable/Attainment		
Carter County	.....	Unclassifiable/Attainment		
Casey County	.....	Unclassifiable/Attainment		
Christian County	.....	Unclassifiable/Attainment		
Clark County	.....	Unclassifiable/Attainment		
Clay County	.....	Unclassifiable/Attainment		
Clinton County	.....	Unclassifiable/Attainment		
Crittenden County	.....	Unclassifiable/Attainment		
Cumberland County	.....	Unclassifiable/Attainment		
Elliott County	.....	Unclassifiable/Attainment		
Estill County	.....	Unclassifiable/Attainment		
Fayette County	11/13/95	Unclassifiable/Attainment		
Fleming County	.....	Unclassifiable/Attainment		
Floyd County	.....	Unclassifiable/Attainment		
Franklin County	.....	Unclassifiable/Attainment		
Fulton County	.....	Unclassifiable/Attainment		
Gallatin County	.....	Unclassifiable/Attainment		
Garrard County	.....	Unclassifiable/Attainment		
Grant County	.....	Unclassifiable/Attainment		
Graves County	.....	Unclassifiable/Attainment		
Grayson County	.....	Unclassifiable/Attainment		
Green County	.....	Unclassifiable/Attainment		
Greenup County	6/29/95	Unclassifiable/Attainment		
Hancock County (part)				
Remainder of county	.....	Unclassifiable/Attainment		
Hardin County	.....	Unclassifiable/Attainment		
Harlan County	.....	Unclassifiable/Attainment		
Harrison County	.....	Unclassifiable/Attainment		
Hart County	.....	Unclassifiable/Attainment		
Henderson County	.....	Unclassifiable/Attainment		
Henry County	.....	Unclassifiable/Attainment		
Hickman County	.....	Unclassifiable/Attainment		
Hopkins County	.....	Unclassifiable/Attainment		
Jackson County	.....	Unclassifiable/Attainment		
Jessamine County	.....	Unclassifiable/Attainment		
Johnson County	.....	Unclassifiable/Attainment		
Knott County		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
Larue County		Unclassifiable/Attainment		
Laurel County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Lee County		Unclassifiable/Attainment		
Leslie County		Unclassifiable/Attainment		
Letcher County		Unclassifiable/Attainment		
Lewis County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Livingston County	4/10/95	Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Lyon County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		
Magoffin County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Marshall County	4/10/95	Unclassifiable/Attainment		
Martin County		Unclassifiable/Attainment		
Mason County		Unclassifiable/Attainment		
McCracken County		Unclassifiable/Attainment		
McCreary County		Unclassifiable/Attainment		

KENTUCKY—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
McLean County		Unclassifiable/Attainment		
Meade County		Unclassifiable/Attainment		
Menifee County		Unclassifiable/Attainment		
Mercer County		Unclassifiable/Attainment		
Metcalfe County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Muhlenberg County		Unclassifiable/Attainment		
Nelson County		Unclassifiable/Attainment		
Nicholas County		Unclassifiable/Attainment		
Ohio County		Unclassifiable/Attainment		
Oldham County (part).				
Remainder of county		Unclassifiable/Attainment		
Owen County		Unclassifiable/Attainment		
Owsley County		Unclassifiable/Attainment		
Pendleton County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Powell County		Unclassifiable/Attainment		
Pulaski County		Unclassifiable/Attainment		
Robertson County		Unclassifiable/Attainment		
Rockcastle County		Unclassifiable/Attainment		
Rowan County		Unclassifiable/Attainment		
Russell County		Unclassifiable/Attainment		
Scott County	11/13/95	Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Simpson County		Unclassifiable/Attainment		
Spencer County		Unclassifiable/Attainment		
Taylor County		Unclassifiable/Attainment		
Todd County		Unclassifiable/Attainment		
Trigg County		Unclassifiable/Attainment		
Trimble County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
Warren County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wayne County		Unclassifiable/Attainment		
Webster County		Unclassifiable/Attainment		
Whitley County		Unclassifiable/Attainment		
Wolfe County		Unclassifiable/Attainment		
Woodford County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.
[2] Attainment date extended to November 15, 1997.

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20. In § 81.319, the table entitled ''Louisiana—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.319 Louisiana.

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LOUISIANA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Baton Rouge Area:				
Ascension Parish		Nonattainment		Serious.
East Baton Rouge Parish		Nonattainment		Serious.
Iberville Parish		Nonattainment		Serious.
Livingston Parish		Nonattainment		Serious.
West Baton Rouge Parish		Nonattainment		Serious.
Beauregard Parish Area:				
Beauregard Parish	10/17/95	Attainment		
Grant Parish Area:				
Grant Parish	10/17/95	Attainment		
Lafayette Area:				
Lafayette Parish	10/17/95	Attainment		
Lafourche Parish Area:				
Lafourche Parish	1/05/98	Nonattainment	1/05/98	Incomplete Data.

LOUISIANA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Lake Charles Area:				
Calcasieu Parish	6/2/97	Attainment		
New Orleans Area:				
Jefferson Parish	12/1/95	Attainment		
Orleans Parish	12/1/95	Attainment		
St. Bernard Parish	12/1/95	Attainment		
St. Charles Parish	12/1/95	Attainment		
Pointe Coupee Area:				
Pointe Coupee Parish	12/20/96	Attainment		
St. James Parish Area:				
St. James Parish	11/13/95	Attainment		
St. Mary Parish Area:				
St. Mary Parish	10/17/95	Attainment		
AQCR 019 Monroe-El Dorado Interstate	.....	Unclassifiable/Attainment		
Caldwell Parish				
Catahoula Parish				
Concordia Parish				
East Carroll Parish				
Franklin Parish				
La Salle Parish				
Madison Parish				
Morehouse Parish				
Ouachita Parish				
Richland Parish				
Tensas Parish				
Union Parish				
West Carroll Parish				
AQCR 022 Shreveport-Texarkana-Tyler Inters	.....	Unclassifiable/Attainment		
Bienville Parish				
Bossier Parish				
Caddo Parish				
Claiborne Parish				
De Soto Parish				
Jackson Parish				
Lincoln Parish				
Natchitoches Parish				
Red River Parish				
Sabine Parish				
Webster Parish				
Winn Parish				
AQCR 106 S. Louisiana-S.E. Texas Interstate				
St. John The Baptist Parish	.....	Unclassifiable/Attainment		
AQCR 106 S. Louisiana-S.E. Texas Interstate	.....	Unclassifiable/Attainment		
Acadia Parish				
Allen Parish				
Assumption Parish				
Avoyelles Parish				
Cameron Parish				
East Feliciana Parish				
Evangeline Parish				
Iberia Parish				
Jefferson Davis Parish				
Plaquemines Parish				
Rapides Parish				
St. Helena Parish				
St. Landry Parish				
St. Martin Parish				
St. Tammany Parish				
Tangipahoa Parish				
Terrebonne Parish				
Vermilion Parish				
Vernon Parish				
Washington Parish				
West Feliciana Parish				

[1] This date is November 15, 1990, unless otherwise noted.

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21. In § 81.320, the table entitled ''Maine—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.320 Maine.

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MAINE—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Franklin County Area:				
Franklin County (part)	5/27/97	Unclassifiable/Attainment		
Hancock County and Waldo County Area:				
Hancock County	4/29/97	Attainment		
Waldo County	4/29/97	Attainment		
Knox County and Lincoln County Area:				
Knox County	.....	Nonattainment	.....	Moderate.
Lincoln County	.....	Nonattainment	.....	Moderate.
Lewiston-Auburn Area:				
Androscoggin County	.....	Nonattainment	.....	Moderate.
Kennebec County	.....	Nonattainment	.....	Moderate.
Oxford County Area:				
Oxford County (part)	5/27/97	Unclassifiable/Attainment		
Portland Area:				
Cumberland County	.....	Nonattainment	.....	Moderate.[2]
Sagadahoc County	.....	Nonattainment	.....	Moderate.[2]
York County	.....	Nonattainment	.....	Moderate.[2]
Somerset County Area:				
Somerset County (part)	5/27/97	Unclassifiable/Attainment		
AQCR 108 Aroostook Intrastate	.....	Unclassifiable/Attainment		
Aroostook County (part) see 40 CFR 81.179				
AQCR 109 Down East Intrastate	.....	Unclassifiable/Attainment		
Penobscot County (part), as described under 40 CFR 81.181				
Piscataquis County (part) see 40 CFR 81.181				
Washington County				
AQCR 111 Northwest Maine Intrastate (Remainder of) see 40 CFR 81.182	.....	Unclassifiable/Attainment		
Aroostook County				
Franklin County (part)				
Oxford County (part)				
Penobscot County (part)				
Piscataquis County (part)				
Somerset County (part)				

[1] This date is November 15, 1990, unless otherwise noted.
[2] Attainment date extended to November 15, 1997.

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22. In § 81.321, the table entitled ''Maryland—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.321 Maryland.

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MARYLAND—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Baltimore Area:				
Anne Arundel County	.....	Nonattainment	.....	Severe-15.
Baltimore				
City of Baltimore	.....	Nonattainment	.....	Severe-15.
Baltimore County	.....	Nonattainment	.....	Severe-15.
Carroll County	.....	Nonattainment	.....	Severe-15.
Harford County	.....	Nonattainment	.....	Severe-15.
Howard County	.....	Nonattainment	.....	Severe-15.
Kent County and Queen Anne's County Area:				
Kent County	1/6/92	Nonattainment	1/6/92	Marginal.
Queen Anne's County	1/6/92	Nonattainment	1/6/92	Marginal.
Philadelphia-Wilmington-Trenton Area:				
Cecil County	.....	Nonattainment	.....	Severe-15.
Washington, DC Area:				
Calvert County	.....	Nonattainment	.....	Serious.
Charles County	.....	Nonattainment	.....	Serious.

MARYLAND—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Frederick County		Nonattainment		Serious.
Montgomery County		Nonattainment		Serious.
Prince George's County		Nonattainment		Serious.
AQCR 113 Cumberland-Keyser Interstate		Unclassifiable/Attainment		
Allegany County				
Garrett County				
Washington County				
AQCR 114 Eastern Shore Interstate (Remainder of)		Unclassifiable/Attainment		
Caroline County				
Dorchester County				
Somerset County				
Talbot County				
Wicomico County				
Worcester County				
AQCR 116 Southern Maryland Intrastate (Remainder of)		Unclassifiable/Attainment		
St. Mary's County				

[1] This date is November 15, 1990, unless otherwise noted.

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23. In § 81.322, the table entitled ''Massachusetts—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.322 Massachusetts.

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MASSACHUSETTS—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Boston-Lawrence-Worcester (E. Mass) Area:				
Barnstable County		Nonattainment		Serious.
Bristol County		Nonattainment		Serious.
Dukes County		Nonattainment		Serious.
Essex County		Nonattainment		Serious.
Middlesex County		Nonattainment		Serious.
Nantucket County		Nonattainment		Serious.
Norfolk County		Nonattainment		Serious.
Plymouth County		Nonattainment		Serious.
Suffolk County		Nonattainment		Serious.
Worcester County		Nonattainment		Serious.
Springfield (W. Mass) Area:				
Berkshire County		Nonattainment		Serious.
Franklin County		Nonattainment		Serious.
Hampden County		Nonattainment		Serious.
Hampshire County		Nonattainment		Serious.

[1] This date is November 15, 1990, unless otherwise noted.

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24. 81.323, the table entitled ''Michigan—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.323 Michigan.

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MICHIGAN—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Allegan County Area:				
Allegan County		Nonattainment		Incomplete Data.
Barry County Area:				
Barry County	3/15/96	Unclassifiable/Attainment		
Battle Creek Area:				
Calhoun County	3/15/96	Unclassifiable/Attainment		
Benton Harbor Area:				
Berrien County	3/15/96	Unclassifiable/Attainment		
Branch County Area:				

MICHIGAN—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Branch County	3/15/96	Unclassifiable/Attainment		
Cass County Area:				
Cass County	3/15/96	Unclassifiable/Attainment		
Detroit-Ann Arbor Area:				
Livingston County	4/6/95	Attainment		
Macomb County	4/6/95	Attainment		
Monroe County	4/6/95	Attainment		
Oakland County	4/6/95	Attainment		
St. Clair County	4/6/95	Attainment		
Washtenaw County	4/6/95	Attainment		
Wayne County	4/6/95	Attainment		
Flint Area:				
Genesee County		Nonattainment		Sec. 185A Area.[2]
Grand Rapids Area:				
Kent County	6/21/96	Attainment		
Ottawa County	6/21/96	Attainment		
Gratiot County Area:				
Gratiot County	3/15/96	Unclassifiable/Attainment		
Hillsdale County Area:				
Hillsdale County	3/15/96	Unclassifiable/Attainment		
Huron County Area:				
Huron County	3/15/96	Unclassifiable/Attainment		
Ionia County Area:				
Ionia County	3/15/96	Unclassifiable/Attainment		
Jackson Area:				
Jackson County	3/15/96	Unclassifiable/Attainment		
Kalamazoo Area:				
Kalamazoo County	3/15/96	Unclassifiable/Attainment		
Lansing-East Lansing Area:				
Clinton County	3/15/96	Unclassifiable/Attainment		
Eaton County	3/15/96	Unclassifiable/Attainment		
Ingham County	3/15/96	Unclassifiable/Attainment		
Lapeer County Area:				
Lapeer County	3/15/96	Unclassifiable/Attainment		
Lenawee County Area:				
Lenawee County	3/15/96	Unclassifiable/Attainment		
Montcalm Area:				
Montcalm County	3/15/96	Unclassifiable/Attainment		
Muskegon Area:				
Muskegon County	12/30/92	Nonattainment		Moderate.
Saginaw-Bay City-Midland Area:				
Bay County		Nonattainment		Incomplete Data.
Midland County		Nonattainment		Incomplete Data.
Saginaw County		Nonattainment		Incomplete Data.
Sanilac County Area:				
Sanilac County	3/15/96	Unclassifiable/Attainment		
Shiawassee County Area:				
Shiawassee County	3/15/96	Unclassifiable/Attainment		
St. Joseph County Area:				
St. Joseph County	3/15/96	Unclassifiable/Attainment		
Tuscola County Area:				
Tuscola County	3/15/96	Unclassifiable/Attainment		
Van Buren County Area:				
Van Buren County	3/15/96	Unclassifiable/Attainment		
AQCR 122 Central Michigan Intrastate (Remainder of):		Unclassifiable/Attainment		
Arenac County				
Clare County				
Gladwin County				
Iosco County				
Isabella County				
Lake County				
Mason County				
Mecosta County				
Newaygo County				
Oceana County				
Ogemaw County				
Osceola County				
Roscommon County				
AQCR 126 Upper Michigan Intrastate (part) Marquette County		Unclassifiable/Attainment		

MICHIGAN—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 126 Upper Michigan Intrastate (Remainder of):	.....	Unclassifiable/Attainment		
Alcona County				
Alger County				
Alpena County				
Antrim County				
Baraga County				
Benzie County				
Charlevoix County				
Cheboygan County				
Chippewa County				
Crawford County				
Delta County				
Dickinson County				
Emmet County				
Gogebic County				
Grand Traverse County				
Houghton County				
Iron County				
Kalkaska County				
Keweenaw County				
Leelanau County				
Luce County				
Mackinac County				
Manistee County				
Menominee County				
Missaukee County				
Montmorency County				
Ontonagon County				
Oscoda County				
Otsego County				
Presque Isle County				
Schoolcraft County				
Wexford County				

[1] This date is November 15, 1990, unless otherwise noted.
[2] An area designated as an ozone nonattainment area as of the date of enactment of the CAAA of the 1990 that did not violate the ozone NAAQS during the period of 1987–1989.

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25. In § 81.324, the table entitled ''Minnesota—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.324 Minnesota.

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MINNESOTA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Minneapolis-Saint Paul Area:				
Anoka County	.....	Unclassifiable/Attainment		
Carver County	.....	.....do		
Dakota County	.....	.....do		
Hennepin County	.....	.....do		
Ramsey County	.....	.....do		
Scott County	.....	.....do		
Washington County	.....	.....do		
Aitkin County	.....	.....do		
Becker County	.....	.....do		
Beltrami County	.....	.....do		
Benton County	.....	.....do		
Big Stone County	.....	.....do		
Blue Earth County	.....	.....do		
Brown County	.....	.....do		
Carlton County	.....	.....do		
Cass County	.....	.....do		
Chippewa County	.....	.....do		
Chisago County	.....	.....do		
Clay County	.....	.....do		
Clearwater County	.....	.....do		

MINNESOTA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Cook County		do		
Cottonwood County		do		
Crowe County		do		
Dodge County		do		
Douglas County		do		
Faribault County		do		
Fillmore County		do		
Freeborn County		do		
Goodhue County		do		
Grant County		do		
Houston County		do		
Hubbard County		do		
Isanti County		do		
Itasca County		do		
Jackson County		do		
Kanabec County		do		
Kandiyohi County		do		
Kittson County		do		
Koochiching County		do		
Lac qui Parle County		do		
Lake County		do		
Lake of the Woods County		do		
Le Sueur County		do		
Lincon County		do		
Lyon County		do		
Mahnomen County		do		
Marshall County		do		
Martin County		do		
McLeod County		do		
Meeker County		do		
Mille Lacs County		do		
Morrison County		do		
Mower County		do		
Murray County		do		
Nicollet County		do		
Nobles County		do		
Norman County		do		
Olmsted County		do		
Otter Tail County		do		
Pennington County		do		
Pine County		do		
Pipestone County		do		
Polk County		do		
Pope County		do		
Red Lake County		do		
Redwood County		do		
Renville County		do		
Rice County		do		
Rock County		do		
Roseau County		do		
Saint Louis County		do		
Sherburne County		do		
Sibley County		do		
Stearns County		do		
Steele County		do		
Stevens County		do		
Swift County		do		
Todd County		do		
Traverse County		do		
Wabasha County		do		
Wadena County		do		
Waseca County		do		
Watonwan County		do		
Wilkin County		do		
Winona County		do		
Wright County		do		
Yellow Medicine County		do		

[1] This date is November 15, 1990, unless otherwise noted.

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26. In § 81.325, the table entitled ''Mississippi—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.325 Mississippi.

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MISSISSIPPI—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Minneapolis-Saint Paul Area:				
Statewide		Unclassifiable/Attainment		
Adams County				
Alcorn County				
Amite County				
Attala County				
Benton County				
Bolivar County				
Calhoun County				
Carroll County				
Chickasaw County				
Choctaw County				
Claiborne County				
Clarke County				
Clay County				
Coahoma County				
Copiah County				
Covington County				
De Soto County				
Forrest County				
Franklin County				
George County				
Greene County				
Grenada County				
Hancock County				
Harrison County				
Hinds County				
Holmes County				
Humphreys County				
Issaquena County				
Itawamba County				
Jackson County				
Jasper County				
Jefferson County				
Jefferson Davis County				
Jones County				
Kemper County				
Lafayette County				
Lamar County				
Lauderdale County				
Lawrence County				
Leake County				
Lee County				
Leflore County				
Lincoln County				
Lowndes County				
Madison County				
Marion County				
Marshall County				
Monroe County				
Montgomery County				
Neshoba County				
Newton County				
Noxubee County				
Oktibbeha County				
Panola County				
Pearl River County				
Perry County				
Pike County				
Pontotoc County				
Prentiss County				
Quitman County				
Rankin County				
Scott County				
Sharkey County				

MISSISSIPPI—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Simpson County				
Smith County				
Stone County				
Sunflower County				
Tallahatchie County				
Tate County				
Tippah County				
Tishomingo County				
Tunica County				
Union County				
Walthall County				
Warren County				
Washington County				
Wayne County				
Webster County				
Wilkinson County				
Winston County				
Yalobusha County				
Yazoo County				

[1] This date is November 15, 1990, unless otherwise noted.

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27. In § 81.326, the table entitled ''Missouri—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.326 Missouri.

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MISSOURI-OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Kansas City Area:				
Clay County	7/23/92	Unclassifiable/Attainment		
Jackson County	7/23/92	Unclassifiable/Attainment		
Platte County	7/23/92	Unclassifiable/Attainment		
St. Louis Area:				
Franklin County	.....	Nonattainment		Moderate.
Jefferson County	.....	Nonattainment		Moderate.
St. Charles County	.....	Nonattainment		Moderate.
St. Louis	.....	Nonattainment		Moderate.
St. Louis County	.....	Nonattainment		Moderate.
AQCR 094 Metro Kansas City Interstate (Remainder of)	.....	Unclassifiable/Attainment		
Buchanan County				
Cass County				
Ray County				
AQCR 137 N. Missouri Intrastate (part)				
Pike County	.....	Unclassifiable/Attainment		
Ralls County	.....	Unclassifiable/Attainment		
AQCR 137 N. Missouri Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Adair County				
Andrew County				
Atchison County				
Audrain County				
Boone County				
Caldwell County				
Callaway County				
Carroll County				
Chariton County				
Clark County				
Clinton County				
Cole County				
Cooper County				
Daviess County				
DeKalb County				
Gentry County				
Grundy County				
Harrison County				
Holt County				

MISSOURI-OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Howard County				
Knox County				
Lewis County				
Lincoln County				
Linn County				
Livingston County				
Macon County				
Marion County				
Mercer County				
Moniteau County				
Monroe County				
Montgomery County				
Nodaway County				
Osage County				
Putnam County				
Randolph County				
Saline County				
Schuyler County				
Scotland County				
Shelby County				
Sullivan County				
Warren County				
Worth County				
Rest of State	.....	Unclassifiable/Attainment		
Barry County				
Barton County				
Bates County				
Benton County				
Bollinger County				
Butler County				
Camden County				
Cape Girardeau County				
Carter County				
Cedar County				
Christian County				
Crawford County				
Dade County				
Dallas County				
Dent County				
Douglas County				
Dunklin County				
Gasconade County				
Greene County				
Henry County				
Hickory County				
Howell County				
Iron County				
Jasper County				
Johnson County				
Laclede County				
Lafayette County				
Lawrence County				
Madison County				
Maries County				
McDonald County				
Miller County				
Mississippi County				
Morgan County				
New Madrid County				
Newton County				
Oregon County				
Ozark County				
Pemiscot County				
Perry County				
Pettis County				
Phelps County				
Polk County				
Pulaski County				
Reynolds County				
Ripley County				

MISSOURI-OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Scott County				
Shannon County				
St.Clair County				
St. Francois County				
Ste. Genevieve County				
Stoddard County				
Stone County				
Taney County				
Texas County				
Vernon County				
Washington County				
Wayne County				
Webster County				
Wright County				

[1] This date is November 15, 1990, unless otherwise noted.

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28. In § 81.327, the table entitled ''Montana—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.327 Montana.

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MONTANA—OZONE (1–HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Beaverhead County	.....	Unclassifiable/Attainment		
Big Horn County (part)	.....	Unclassifiable/Attainment		
excluding Crow, Northern Cheyenne Indian Reservations				
Blaine County (part)				
excluding Fort Belknap Indian Reservation				
Broadwater County	.....	Unclassifiable/Attainment		
Carbon County	.....	Unclassifiable/Attainment		
Carter County	.....	Unclassifiable/Attainment		
Cascade County	.....	Unclassifiable/Attainment		
Chouteau County (part)				
excluding Rocky Boy Indian Reservation	.....	Unclassifiable/Attainment		
Custer County	.....	Unclassifiable/Attainment		
Daniels County (part)				
excluding Fort Peck Indian Reservation	.....	Unclassifiable/Attainment		
Dawson County	.....	Unclassifiable/Attainment		
Deer Lodge County	.....	Unclassifiable/Attainment		
Fallon County	.....	Unclassifiable/Attainment		
Fergus County	.....	Unclassifiable/Attainment		
Flathead County (part)				
excluding Flathead Indian Reservation	.....	Unclassifiable/Attainment		
Gallatin County	.....	Unclassifiable/Attainment		
Garfield County	.....	Unclassifiable/Attainment		
Glacier County (part)				
excluding Blackfeet Indian Reservation	.....	Unclassifiable/Attainment		
Golden Valley County	.....	Unclassifiable/Attainment		
Granite County	.....	Unclassifiable/Attainment		
Hill County (part)				
excluding Rocky Boy Indian Reservation	.....	Unclassifiable/Attainment		
Jefferson County	.....	Unclassifiable/Attainment		
Judith Basin County	.....	Unclassifiable/Attainment		
Lake County (part)				
excluding Flathead Indian Reservation	.....	Unclassifiable/Attainment		
Lewis and Clark County	.....	Unclassifiable/Attainment		
Liberty County	.....	Unclassifiable/Attainment		
Lincoln County	.....	Unclassifiable/Attainment		
Madison County	.....	Unclassifiable/Attainment		
McCone County	.....	Unclassifiable/Attainment		
Meagher County	.....	Unclassifiable/Attainment		
Mineral County	.....	Unclassifiable/Attainment		
Missoula County (part)				
excluding Flathead Indian Reservation	.....	Unclassifiable/Attainment		

MONTANA—OZONE (1–HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Musselshell County		Unclassifiable/Attainment		
Park County		Unclassifiable/Attainment		
Petroleum County		Unclassifiable/Attainment		
Phillips County (part)				
excluding Fort Belknap Indian Reservation		Unclassifiable/Attainment		
Pondera County (part)				
excluding Blackfeet Indian Reservation		Unclassifiable/Attainment		
Powder River County		Unclassifiable/Attainment		
Powell County		Unclassifiable/Attainment		
Prairie County		Unclassifiable/Attainment		
Ravalli County		Unclassifiable/Attainment		
Richland County		Unclassifiable/Attainment		
Roosevelt County (part)				
excluding Fort Peck Indian Reservation		Unclassifiable/Attainment		
Rosebud County (part)				
excluding Northern Cheyenne Indian Reservation		Unclassifiable/Attainment		
Sanders County (part).				
excluding Flathead Indian Reservation		Unclassifiable/Attainment		
Sheridan County (part)				
excluding Fort Peck Indian Reservation		Unclassifiable/Attainment		
Silver Bow County		Unclassifiable/Attainment		
Stillwater County		Unclassifiable/Attainment		
Sweet Grass County		Unclassifiable/Attainment		
Teton County		Unclassifiable/Attainment		
Toole County		Unclassifiable/Attainment		
Treasure County		Unclassifiable/Attainment		
Valley County (part)				
excluding Fort Peck Indian Reservation		Unclassifiable/Attainment		
Wheatland County		Unclassifiable/Attainment		
Wibaux County		Unclassifiable/Attainment		
Yellowstone County (part)				
excluding Crow Indian Reservation		Unclassifiable/Attainment		
Yellowstone Natl Park		Unclassifiable/Attainment		
Blackfeet Indian Reservation		Unclassifiable/Attainment		
Glacier County (part)				
area inside Blackfeet Reservation				
Pondera County (part)				
area inside Blackfeet Reservation				
Crow Indian Reservation		Unclassifiable/Attainment		
Bighorn County (part)				
area inside Crow Reservation				
Yellowstone (part)				
area inside Crow Reservation				
Flathead Indian Reservation		Unclassifiable/Attainment		
Flathead County (part)				
area inside Flathead Reservation				
Lake County (part)				
area inside Flathead Reservation				
Missoula County (part)				
area inside Flathead Reservation				
Sanders County (part)				
area inside Flathead Reservation				
Fort Belknap Indian Reservation		Unclassifiable/Attainment		
Blaine County (part)				
area inside Fort Belknap Reservation				
Phillips County (part)				
area inside Fort Belknap Reservation				
Fort Peck Indian Reservation		Unclassifiable/Attainment		
Daniels County (part)				
area inside Fort Peck Reservation				
Roosevelt County (part)				
area inside Fort Peck Reservation				
Sheridan County (part)				
area inside Fort Peck Reservation				
Valley County (part)				
area inside Fort Peck Reservation				
Northern Cheyenne Indian Reservation		Unclassifiable/Attainment		
Bighorn County (part)				
area inside Northern Cheyenne Reservation				
Rosebud County (part)				

MONTANA—OZONE (1–HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
area inside Northern Cheyenne Reservation Rocky Boy Indian Reservation ..... Chouteau County (part) area inside Rocky Boy Reservation Hill County (part) area inside Rocky Boy Reservation	.....	Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

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29. In § 81.328, the table entitled ''Nebraska—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.328 Nebraska.

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NEBRASKA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide ..... Adams County Antelope County Arthur County Banner County Blaine County Boone County Box Butte County Boyd County Brown County Buffalo County Burt County Butler County Cass County Cedar County Chase County Cherry County Cheyenne County Clay County Colfax County Cuming County Custer County Dakota County Dawes County Dawson County Deuel County Dixon County Dodge County Douglas County Dundy County Fillmore County Franklin County Frontier County Furnas County Gage County Garden County Garfield County Gosper County Grant County Greeley County Hall County Hamilton County Harlan County Hayes County Hitchcock County Holt County Hooker County Howard County Jefferson County Johnson County	.....	Unclassifiable/Attainment		

NEBRASKA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Kearney County				
Keith County				
Keya Paha County				
Kimball County				
Knox County				
Lancaster County				
Lincoln County				
Logan County				
Loup County				
Madison County				
McPherson County				
Merrick County				
Morrill County				
Nance County				
Nemaha County				
Nuckolls County				
Otoe County				
Pawnee County				
Perkins County				
Phelps County				
Pierce County				
Platte County				
Polk County				
Red Willow County				
Richardson County				
Rock County				
Saline County				
Sarpy County				
Saunders County				
Scotts Bluff County				
Seward County				
Sheridan County				
Sherman County				
Sioux County				
Stanton County				
Thayer County				
Thomas County				
Thurston County				
Valley County				
Washington County				
Wayne County				
Webster County				
Wheeler County				
York County				

[1] This date is November 15, 1990, unless otherwise noted.

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30. In § 81.329, the table entitled ''Nevada—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.329 Nevada.

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NEVADA—OZONE (1–HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Reno Area:				
Washoe County	1/6/92	Nonattainment	1/6/92	Marginal.
Rest of State		Unclassifiable/Attainment		
Carson City				
Churchill County				
Clark County				
Douglas County				
Elko County				
Esmeralda County				
Eureka County				
Humboldt County				
Lander County				

NEVADA—OZONE (1–HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Lincoln County Lyon County Mineral County Nye County Pershing County Storey County White Pine County				

[1] This date is November 15, 1990, unless otherwise noted.

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31. In § 81.330, the table entitled ''New Hampshire—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.330 New Hampshire.

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NEW HAMPSHIRE—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Belknap County Area:				
Belknap County	5/27/97	Unclassifiable/Attainment		
Boston-Lawrence-Worcester Area:				
Hillsborough County (part)	.....	Nonattainment	.....	Serious.
Pelham Town, Amherst Town, Brookline Town, Hollis Town, Hudson Town, Litchfield Town, Merrimack Town, Milford Town, Mont Vernon Town, Nashua City, Wilton Town.				
Rockingham County (part)	.....	Nonattainment	.....	Serious.
Atkinson Town, Brentwood Town, Danville Town, Derry Town, E. Kingston Town, Hampstead Town, Hampton Falls Town, Kensington Town, Kingston Town, Londonderry Town, Newton Town, Plaistow Town, Salem Town, Sandown Town, Seabrook Town, South Hampton Town Windham Town.				
Cheshire County Area:				
Cheshire County	.....	Nonattainment	.....	Incomplete Data.
Manchester Area:				
Hillsborough County (part)	.....	Nonattainment	.....	Marginal.
Antrim Town, Bedford Town, Bennington Town, Deering Town, Francestown Town, Goffstown Town, Greenfield Town, Greenville Town, Hancock Town, Hillsborough Town, Lyndeborough Town, Manchester city, Mason Town, New Boston Town, New Ipswich Town, Petersborough Town, Sharon Town, Temple town, Weare Town, Windsor Town.				
Merrimack County	.....	Nonattainment	.....	Marginal.
Rockingham County (part)	.....	Nonattainment	.....	Marginal.
Auburn Town, Candia Town, Chester Town, Deerfield Town, Epping Town, Fremont Town, Northwood Town, Nottingham Town, Raymond Town.				
Portsmouth-Dover-Rochester Area:				
Rockingham County (part)	.....	Nonattainment	.....	Serious.
Exeter Town, Greenland Town, Hampton Town, New Castle Town, Newfields Town, Newington Town, Newmarket Town, North Hampton Town, Portsmouth city, Rye Town, Stratham Town.				
Strafford County	.....	Nonattainment	.....	Serious.
Sullivan County Area:				
Sullivan County	5/27/97	Unclassifiable/Attainment		
AQCR 107 Androscoggin Valley Interstate:				
Coos County	.....	Unclassifiable/Attainment		
AQCR 149 Central New Hampshire Interstate:				
Carroll County	.....	Unclassifiable/Attainment		
Grafton County	.....	Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

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32. In § 81.331, the table entitled ''New Jersey—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.331 New Jersey.

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NEW JERSEY—OZONE (1–HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Allentown-Bethlehem Easton Area:				
Warren County	.....	Nonattainment	.....	Marginal.
Atlantic City Area:				
Atlantic County	.....	Nonattainment	.....	Moderate.
Cape May County	.....	Nonattainment	.....	Moderate.
New York-N. New Jersey-Long Island Area:				
Bergen County	.....	Nonattainment	.....	Severe-17.
Essex County	.....	Nonattainment	.....	Severe-17.
Hudson County	.....	Nonattainment	.....	Severe-17.
Hunterdon County	.....	Nonattainment	.....	Severe-17.
Middlesex County	.....	Nonattainment	.....	Severe-17.
Monmouth County	.....	Nonattainment	.....	Severe-17.
Morris County	.....	Nonattainment	.....	Severe-17.
Ocean County	.....	Nonattainment	.....	Severe-17.
Passaic County	.....	Nonattainment	.....	Severe-17.
Somerset County	.....	Nonattainment	.....	Severe-17.
Sussex County	.....	Nonattainment	.....	Severe-17.
Union County	.....	Nonattainment	.....	Severe-17.
Philadelphia-Wilmington-Trenton Area:				
Burlington County	.....	Nonattainment	.....	Severe-15.
Camden County	.....	Nonattainment	.....	Severe-15.
Cumberland County	.....	Nonattainment	.....	Severe-15.
Gloucester County	.....	Nonattainment	.....	Severe-15.
Mercer County	.....	Nonattainment	.....	Severe-15.
Salem County	.....	Nonattainment	.....	Severe-15.

[1] This date is November 15, 1990, unless otherwise noted.

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33. In § 81.332, the table entitled ''New Mexico—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.332 New Mexico.

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NEW MEXICO—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 012 New Mexico-Southern Border Intrastate	.....	Unclassifiable/Attainment		
Grant County				
Hidalgo County				
Luna County				
AQCR 014 Four Corners Interstate	.....	Unclassifiable/Attainment		
see 40 CFR 81.121				
McKinley County (part)				
Rio Arriba County (part)				
San Juan County				
Sandoval County (part)				
Valencia County (part)				
AQCR 152 Albuquerque-Mid Rio Grande Intrastate	.....	Unclassifiable/Attainment		
Bernalillo County (part)				
AQCR 152 Albuquerque-Mid Rio Grande	.....	Unclassifiable/Attainment		
Sandoval County (part)				
see 40 CFR 81.83.				
Valencia County.				
see 40 CFR 81.83.				
AQCR 153 El Paso-Las Cruces-Alamogordo	7/12/95	Nonattainment	7/12/95	Marginal.
Dona Ana County (part)—(Sunland Park Area) The Area bounded by the New Mexico-Texas State line on the east, the New Mexico-Mexico international line on the south, the Range 3E–Range 2E line on the west, and the N3200 latitude line on the north.				

NEW MEXICO—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Remainder of Dona Ana County	.....	Unclassifiable/Attainment		
Lincoln County	.....	Unclassifiable/Attainment		
Otero County	.....	Unclassifiable/Attainment		
Sierra County	.....	Unclassifiable/Attainment		
AQCR 154 Northeastern Plains Intrastate	.....	Unclassifiable/Attainment		
Colfax County				
Guadalupe County				
Harding County				
Mora County				
San Miguel County				
Torrance County				
Union County				
AQCR 155 Pecos-Permian Basin Intrastate	.....	Unclassifiable/Attainment		
Chaves County				
Curry County				
De Baca County				
Eddy County				
Lea County				
Quay County				
Roosevelt County				
AQCR 156 SW Mountains-Augustine Plains	.....	Unclassifiable/Attainment		
Catron County				
Cibola County				
McKinley County (part) see 40 CFR 81.241				
Socorro County				
Valencia County (part) see 40 CFR 81.241				
AQCR 157 Upper Rio Grande Valley Intrastate	.....	Unclassifiable/Attainment		
Los Alamos County				
Rio Arriba County (part) see 40 CFR 81.239.				
Santa Fe County				
Taos County				

[1] This date is November 15, 1990, unless otherwise noted.

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34. In § 81.333, the table entitled ''New York—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.333 New York.

* * * * * * *

NEW YORK—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [2]	Type
Albany-Schenectady-Troy Area:				
Albany County	1/6/92	Nonattainment	1/6/92	Marginal.
Greene County	1/6/92	Nonattainment	1/6/92	Marginal.
Montgomery County	1/6/92	Nonattainment	1/6/92	Marginal.
Rensselaer County	1/6/92	Nonattainment	1/6/92	Marginal.
Saratoga County	1/6/92	Nonattainment	1/6/92	Marginal.
Schenectady County	1/6/92	Nonattainment	1/6/92	Marginal.
Buffalo-Niagara Falls Area:				
Erie County	1/6/92	Nonattainment	1/6/92	Marginal.
Niagara County	1/6/92	Nonattainment	1/6/92	Marginal.
Essex County Area:				
Essex County (part)	1/6/92	Nonattainment	1/6/92	Rural Transport (Marginal).
The portion of Whiteface Mountain above 4500 feet in elevation in Essex County				
Jefferson County Area:.				
Jefferson County	1/6/92	Nonattainment	1/6/92	Marginal.
New York-Northern New Jersey-Long Island Area:				
Bronx County	.....	Nonattainment	.....	Severe-17.
Kings County	.....	Nonattainment	.....	Severe-17.
Nassau County	.....	Nonattainment	.....	Severe-17.
New York County	.....	Nonattainment	.....	Severe-17.

NEW YORK—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [2]	Type
Orange County (part) ..... Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick, and Woodbury.	1/15/92	Nonattainment	1/15/92	Severe-17.
Queens County	.....	Nonattainment	.....	Severe-17.
Richmond County	.....	Nonattainment	.....	Severe-17.
Rockland County	.....	Nonattainment	.....	Severe-17.
Suffolk County	.....	Nonattainment	.....	Severe-17.
Westchester County	.....	Nonattainment	.....	Severe-17.
Poughkeepsie Area:				
Dutchess County	1/6/92	Nonattainment	11/7/94	Moderate.
Orange County (remainder)	[2] 4/21/94	Nonattainment	[2] 11/7/94	Moderate.
Putnam County	1/15/92	Nonattainment	11/7/94	Moderate.
AQCR 158 Central New York Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Cayuga County.				
Cortland County.				
Herkimer County.				
Lewis County.				
Madison County.				
Oneida County.				
Onondaga County.				
Oswego County.				
AQCR 159 Champlain Valley Interstate (Remainder of)	.....	Unclassifiable/Attainment		
Clinton County				
Franklin County				
Hamilton County				
St. Lawrence County				
Warren County				
Washington County				
AQCR 160 Genessee-Finger Lakes Intrastate	.....	Unclassifiable/Attainment		
Genessee County				
Livingston County				
Monroe County				
Ontario County				
Orleans County				
Seneca County				
Wayne County				
Wyoming County				
Yates County				
AQCR 161 Hudson Valley Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Columbia County				
Fulton County				
Schoharie County				
Ulster County				
AQCR 163 Southern Tier East Intrastate	.....	Unclassifiable/Attainment		
Broome County				
Chenango County				
Delaware County				
Otsego County				
Sullivan County				
Tioga County				
AQCR 164 Southern Tier West Intrastate	.....	Unclassifiable/Attainment		
Allegany County				
Cattaraugus County				
Chautauqua County				
Chemung County				
Schuyler County				
Steuben County				
Tompkins County				

[1] This date is November 15, 1990, unless otherwise noted.
[2] However, the effective date is November 15, 1990, for purposes of determining the scope of a ''covered area'' under section 211 (k)(10)(D), opt-in under section 211 (k)(6), and the baseline determination of the 15% reduction in volatile organic compounds under section 182 (b)(1).

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35. In § 81.334, the table entitled ''North Carolina—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.334 North Carolina.

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NORTH CAROLINA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide	.....	Unclassifiable/Attainment		
Alamance County				
Alexander County				
Alleghany County				
Anson County				
Ashe County				
Avery County				
Beaufort County				
Bertie County				
Bladen County				
Brunswick County				
Buncombe County				
Burke County				
Cabarrus County				
Caldwell County				
Camden County				
Carteret County				
Caswell County				
Catawba County				
Chatham County				
Cherokee County				
Chowan County				
Clay County				
Cleveland County				
Columbus County				
Craven County				
Cumberland County				
Currituck County				
Dare County				
Davidson County	9/9/93			
Davie County	9/9/93			
Durham County	6/17/94			
Duplin County				
Edgecombe County				
Forsyth County	9/9/93			
Franklin County				
Gaston County	7/5/95			
Gates County				
Graham County				
Granville County	6/17/94			
Greene County				
Guilford County	9/9/93			
Halifax County				
Harnett County				
Haywood County				
Henderson County				
Hertford County				
Hoke County				
Hyde County				
Iredell County				
Jackson County				
Johnston County				
Jones County				
Lee County				
Lenoir County				
Lincoln County				
McDowell County				
Macon County				
Madison County				
Martin County				
Mecklenburg County	7/5/95			
Mitchell County				
Montgomery County				
Moore County				
Nash County				
New Hanover County				
Northhampton County				
Onslow County				
Orange County				

NORTH CAROLINA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Pamlico County				
Pasquotank County				
Pender County				
Perquimans County				
Person County				
Pitt County				
Polk County				
Randolph County				
Richmond County				
Robeson County				
Rockingham County				
Rowan County				
Rutherford County				
Sampson County				
Scotland County				
Stanly County				
Stokes County				
Surry County				
Swain County				
Transylvania County				
Tyrrell County				
Union County				
Vance County				
Wake County	6/17/94			
Warren County				
Washington County				
Watauga County				
Wayne County				
Wilkes County				
Wilson County				
Yadkin County				
Yancey County				

[1]This date is November 15, 1990, unless otherwise noted.

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36. In § 81.335, the table entitled ''North Dakota—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.335 North Dakota.

* * * * * * *

NORTH DAKOTA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 130 Metropolitan Fargo-Moorhead Interstate.				
Cass County	.....	Unclassifiable/Attainment		
Rest of State, AQCR 172	.....	Unclassifiable/Attainment		
Adams County				
Barnes County				
Benson County				
Billings County				
Bottineau County				
Bowman County				
Burke County				
Burleigh County				
Cavalier County				
Dickey County				
Divide County				
Dunn County				
Eddy County				
Emmons County				
Foster County				
Golden Valley County				
Grand Forks County				
Grant County				
Griggs County				
Hettinger County				

NORTH DAKOTA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Kidder County				
La Moure County				
Logan County				
McHenry County				
McIntosh County				
McKenzie County				
McLean County				
Mercer County				
Morton County				
Mountrail County				
Nelson County				
Oliver County				
Pembina County				
Pierce County				
Ramsey County				
Ransom County				
Renville County				
Richland County				
Rolette County				
Sargent County				
Sheridan County				
Sioux County				
Slope County				
Stark County				
Steele County				
Stutsman County				
Towner County				
Traill County				
Walsh County				
Ward County				
Wells County				
Williams County				

[1] This date is November 15, 1990, unless otherwise noted.

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37. In § 81.336, the table entitled ''Ohio—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.336 Ohio.

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OHIO—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type [2]	Date [1]	Type [2]
Canton Area:				
Stark County	4/1/96	Attainment		
Cincinnati-Hamilton Area:				
Butler County	.....	Nonattainment	.....	Moderate [2]
Clermont County	.....	Nonattainment	.....	Moderate [2]
Hamilton County	.....	Nonattainment	.....	Moderate [2]
Warren County	.....	Nonattainment	.....	Moderate [2]
Cleveland-Akron-Lorain Area:	5/7/96	Attainment		
Ashtabula County				
Cuyahoga County				
Geauga County				
Lake County				
Lorain County				
Medina County				
Portage County				
Summit County				
Clinton County Area:				
Clinton County	3/21/96	Attainment		
Columbiana County Area:				
Columbiana County	3/10/95	Attainment		
Columbus Area:				
Delaware County	4/1/96	Attainment		
Franklin County	4/1/96	Attainment		
Licking County	4/1/96	Attainment		

OHIO—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type [2]	Date [1]	Type [2]
Dayton-Springfield Area:				
Clark County	7/5/95	Attainment		
Greene County	7/5/95	Attainment		
Miami County	7/5/95	Attainment		
Montgomery County	7/5/95	Attainment		
Preble County Area:				
Preble County	3/10/95	Attainment		
Steubenville Area:				
Jefferson County	3/10/95	Attainment		
Toledo Area:				
Lucas County	8/1/95	Attainment		
Wood County	8/1/95	Attainment		
Youngstown-Warren-Sharon Area:				
Mahoning County	4/1/96	Attainment		
Trumbull County	4/1/96	Attainment		
Adams County		Unclassifiable/Attainment		
Allen County		Unclassifiable/Attainment		
Ashland County		Unclassifiable/Attainment		
Athens County		Unclassifiable/Attainment		
Auglaize County		Unclassifiable/Attainment		
Belmont County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Carroll County		Unclassifiable/Attainment		
Champaign County		Unclassifiable/Attainment		
Coshocton County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Darke County		Unclassifiable/Attainment		
Defiance County		Unclassifiable/Attainment		
Erie County		Unclassifiable/Attainment		
Fairfield County		Unclassifiable/Attainment		
Fayette County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Gallia County		Unclassifiable/Attainment		
Guernsey County		Unclassifiable/Attainment		
Hancock County		Unclassifiable/Attainment		
Hardin County		Unclassifiable/Attainment		
Harrison County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Highland County		Unclassifiable/Attainment		
Hocking County		Unclassifiable/Attainment		
Holmes County		Unclassifiable/Attainment		
Huron County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Meigs County		Unclassifiable/Attainment		
Mercer County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Morrow County		Unclassifiable/Attainment		
Muskingum County		Unclassifiable/Attainment		
Noble County		Unclassifiable/Attainment		
Ottawa County		Unclassifiable/Attainment		
Paulding County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Pickaway County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Putnam County		Unclassifiable/Attainment		
Richland County		Unclassifiable/Attainment		
Ross County		Unclassifiable/Attainment		
Sandusky County		Unclassifiable/Attainment		
Scioto County		Unclassifiable/Attainment		
Seneca County		Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Tuscarawas County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		

OHIO—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type [2]	Date [1]	Type [2]
Van Wert County	.....	Unclassifiable/Attainment		
Vinton County	.....	Unclassifiable/Attainment		
Washington County	.....	Unclassifiable/Attainment		
Wayne County	.....	Unclassifiable/Attainment		
Williams County	.....	Unclassifiable/Attainment		
Wyandot County	.....	Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.
[2] Attainment date extended to November 15, 1998.

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38. In § 81.337, the table entitled ''Oklahoma—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.337 Oklahoma.

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OKLAHOMA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 017 Metropolitan Fort Smith Interstate	.....	Unclassifiable/Attainment		
Adair County				
Cherokee County				
Le Flore County				
Sequoyah County				
AQCR 022 Shreveport-Texarkana-Tyler Intrastate	.....	Unclassifiabl/Attainment		
McCurtain County				
AQCR 184 Central Oklahoma Intrastate (part)	.....			
Cleveland County	.....	Unclassifiable/Attainment		
Oklahoma County	.....	Unclassifiable/Attainment		
AQCR 184 Central Oklahoma Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Canadian County				
Grady County				
Kingfisher County				
Lincoln County				
Logan County				
McClain County				
Pottawatomie County				
AQCR 185 North Central Oklahoma Intrastate	.....	Unclassifiable/Attainment		
Garfield County				
Grant County				
Kay County				
Noble County				
Payne County				
AQCR 186 Northeastern Oklahoma Intrastate	.....	Unclassifiable/Attainment		
Craig County				
Creek County				
Delaware County				
Mayes County				
Muskogee County				
Nowata County				
Okmulgee County				
Osage County				
Ottawa County				
Pawnee County				
Rogers County				
Tulsa County				
Wagoner County				
Washington County				
AQCR 187 Northwestern Oklahoma Intrastate	.....	Unclassifiable/Attainment		
Alfalfa County				
Beaver County				
Blaine County				
Cimarron County				
Custer County				
Dewey County				
Ellis County				
Harper County				

OKLAHOMA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Major County				
Roger Mills County				
Texas County				
Woods County				
Woodward County				
AQCR 188 Southeastern Oklahoma Intrastate	.....	Unclassifiable/Attainment		
Atoka County				
Bryan County				
Carter County				
Choctaw County				
Coal County				
Garvin County				
Haskell County				
Hughes County				
Johnston County				
Latimer County				
Love County				
Marshall County				
McIntosh County				
Murray County				
Okfuskee County				
Pittsburg County				
Pontotoc County				
Pushmataha County				
Seminole County				
AQCR 189 Southwestern Oklahoma Intrastate	.....	Unclassifiable/Attainment		
Beckham County				
Caddo County				
Comanche County				
Cotton County				
Greer County				
Harmon County				
Jackson County				
Jefferson County				
Kiowa County				
Stephens County				
Tillman County				
Washita County				

[1] This date is November 15, 1990, unless otherwise noted.

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39. In § 81.338, the table entitled ''Oregon—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.338 Oregon.

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OREGON-OZONE (1–HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Portland-Vancouver AQMA Area:	.....	Attainment		
Air Quality Maintenance Area				
Clackamas County (part)				
Multnomah County (part)				
Washington County (part)				
Salem Area:				
Salem Area Transportation Study.				
Marion County (part)	.....	Nonattainment	.....	Incomplete Data.
Polk County (part)	.....	Nonattainment	.....	Incomplete Data.
AQCR 190 Central Oregon Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Crook County				
Deschutes County				
Hood River County				
Jefferson County				
Klamath County				
Lake County				
Sherman County				
Wasco County				

OREGON-OZONE (1–HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 191 Eastern Oregon Intrastate		Unclassifiable/Attainment		
Baker County				
Gilliam County				
Grant County				
Harney County				
Malheur County				
Morrow County				
Umatilla County				
Union County				
Wallowa County				
Wheeler County				
AQCR 192 Northwest Oregon Intrastate		Unclassifiable/Attainment		
Clatsop County				
Lincoln County				
Tillamook County				
AQCR 193 Portland Interstate (part)		Unclassifiable/Attainment		
Lane County (part) Eugene Springfield Air Quality Maintenance Area.				
AQCR 193 Portland Interstate (Remainder of)		Unclassifiable/Attainment		
Benton County				
Clackamas County (part)				
Remainder of county				
Columbia County				
Lane County (part)				
Remainder of county				
Linn County				
Marion County (part)				
area outside the Salem Area Transportation Study				
Multnomah County (part)				
Remainder of county				
Polk County (part)				
area outside the Salem Area Transportation Study				
Washington County (part)				
Remainder of county				
Yamhill County				
AQCR 194 Southwest Oregon Intrastate (part)				
Jackson County (part)				
Medford-Ashland Air Quality Maintenance Area		Unclassifiable/Attainment		
AQCR 194 Southwest Oregon Intrastate (Remainder of)		Unclassifiable/Attainment		
Coos County				
Curry County				
Douglas County				
Jackson County (part)				
Remainder of county				
Josephine County				

[1] This date is November 15, 1990, unless otherwise noted.

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40. In § 81.339, the table entitled ''Pennsylvania—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.339 Pennsylvania.

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PENNSYLVANIA—OZONE (1–HOUR STANDARD)

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Allentown-Bethlehem-Easton Area:				
Carbon County		Nonattainment		Marginal.
Lehigh County		Nonattainment		Marginal
Northampton County		Nonattainment		Marginal.
Altoona Area:				
Blair County	1/6/92	Nonattainment	1/6/92	Marginal.
Crawford County Area:				
Crawford County		Nonattainment		Incomplete Data.
Erie Area:				

PENNSYLVANIA—OZONE (1–HOUR STANDARD)—Continued

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Erie County		Nonattainment		Marginal.
Franklin County Area:				
Franklin County		Nonattainment		Incomplete Data.
Greene County Area:				
Greene County		Nonattainment		Incomplete Data.
Harrisburg-Lebanon-Carlisle Area:				
Cumberland County		Nonattainment		Marginal.
Dauphin County		Nonattainment		Marginal.
Lebanon County		Nonattainment		Marginal.
Perry County		Nonattainment		Marginal.
Johnstown Area:				
Cambria County	1/6/92	Nonattainment	1/6/92	Marginal.
Somerset County	1/6/92	Nonattainment	1/6/92	Marginal.
Juniata County Area:				
Juniata County		Nonattainment		Incomplete Data.
Lancaster Area:				
Lancaster County		Nonattainment		Marginal.
Lawrence County Area:				
Lawrence County		Nonattainment		Incomplete Data
Northumberland County Area:				
Northumberland County		Nonattainment		Incomplete Data.
Philadelphia-Wilmington-Trenton Area:				
Bucks County		Nonattainment		Severe-15.
Chester County		Nonattainment		Severe-15.
Delaware County		Nonattainment		Severe-15.
Montgomery County		Nonattainment		Severe-15.
Philadelphia County		Nonattainment		Severe-15.
Pike County Area:				
Pike County		Nonattainment		Incomplete Data.
Pittsburgh-Beaver Valley Area:				
Allegheny County		Nonattainment		Moderate (2).
Armstrong County		Nonattainment		Moderate (2).
Beaver County		Nonattainment		Moderate (2).
Butler County		Nonattainment		Moderate (2).
Fayette County		Nonattainment		Moderate (2).
Washington County		Nonattainment		Moderate (2).
Westmoreland County		Nonattainment		Moderate (2).
Reading Area:				
Berks County	6/23/97	Unclassifiable/Attainment		
Schuylkill County Area:				
Schuylkill County		Nonattainment		Incomplete Data.
Scranton-Wilkes-Barre Area:				
Columbia County		Nonattainment		Marginal.
Lackawanna County		Nonattainment		Marginal.
Luzerne County		Nonattainment		Marginal.
Monroe County		Nonattainment		Marginal.
Wyoming County		Nonattainment		Marginal.
Snyder County Area:				
Snyder County		Nonattainment		Incomplete Data.
Susquehanna County Area:				
Susquehanna County		Nonattainment		ncomplete Data.
Warren County Area:				
Warren County		Nonattainment		Incomplete Data.
Wayne County Area:				
Wayne County		Nonattainment		Incomplete Data.
York Area:				
Adams County		Nonattainment		Marginal.
York County		Nonattainment		Marginal.
Youngstown-Warren-Sharon Area:				
Mercer County		Nonattainment		Marginal.
AQCR 151 NE Pennsylvania Intrastate (Remainder of)				
Bradford County		Unclassifiable/Attainment		
Sullivan County		Unclassifiable/Attainment		
Tioga County		Unclassifiable/Attainment		
		Unclassifiable/Attainment		
AQCR 178 NW Pennsylvania Interstate (Remainder of)				
Cameron County		Unclassifiable/Attainment		
Clarion County		Unclassifiable/Attainment		
Clearfield County		Unclassifiable/Attainment		
Elk County		Unclassifiable/Attainment		

PENNSYLVANIA—OZONE (1–HOUR STANDARD)—Continued

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Forest County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
McKean County		Unclassifiable/Attainment		
Potter County		Unclassifiable/Attainment		
Venango County		Unclassifiable/Attainment		
AQCR 195 Central Pennsylvania Intrastate (Remainder of)				
Bedford County		Unclassifiable/Attainment		
Centre County		Unclassifiable/Attainment		
Clinton County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Huntingdon County		Unclassifiable/Attainment		
Lycoming County		Unclassifiable/Attainment		
Mifflin County		Unclassifiable/Attainment		
Montour County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
AQCR 197 SW Pennsylvania Intrastate (Remainder of)				
Indiana County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.
[2] Attainment date extended to 11/15/97.

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41. In § 81.340, the table entitled ''Rhode Island—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.340 Rhode Island.

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RHODE ISLAND—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Providence (all of RI) Area:				
Bristol County		Nonattainment		Serious.
Kent County		Nonattainment		Serious.
Newport County		Nonattainment		Serious.
Providence County		Nonattainment		Serious.
Washington County		Nonattainment		Serious.

[1] This date is November 15, 1990, unless otherwise noted.

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42. In § 81.341, the table entitled ''South Carolina—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.341 South Carolina.

* * * * * * *

SOUTH CAROLINA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide		Unclassifiable/Attainment		
Abbeville County				
Aiken County				
Allendale County				
Anderson County				
Bamberg County				
Barnwell County				
Beaufort County				
Berkeley County				
Calhoun County				
Charleston County				
Cherokee County	2/16/93			
Chester County				
Chesterfield County				
Clarendon County				
Colleton County				
Darlington County				

SOUTH CAROLINA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Dillon County				
Dorchester County				
Edgefield County				
Fairfield County				
Florence County				
Georgetown County				
Greenville County				
Greenwood County				
Hampton County				
Horry County				
Jasper County				
Kershaw County				
Lancaster County				
Laurens County				
Lee County				
Lexington County				
Marion County				
Marlboro County				
McCormick County				
Newberry County				
Oconee County				
Orangeburg County				
Pickens County				
Richland County				
Saluda County				
Spartanburg County				
Sumter County				
Union County				
Williamsburg County				
York County				

[1] This date is November 15, 1990, unless otherwise noted.

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43. In § 81.342, the table entitled ''South Dakota-Ozone (1–Hour Standard)'' is revised to read as follows:

§ 81.342 South Dakota.

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SOUTH DAKOTA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide		Unclassifiable/Attainment		
Aurora County				
Beadle County				
Bennett County				
Bon Homme County				
Brookings County				
Brown County				
Brule County				
Buffalo County				
Butte County				
Campbell County				
Charles Mix County				
Clark County				
Clay County				
Codington County				
Corson County				
Custer County				
Davison County				
Day County				
Deuel County				
Dewey County				
Douglas County				
Edmunds County				
Fall River County				
Faulk County				
Grant County				

SOUTH DAKOTA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Gregory County				
Haakon County				
Hamlin County				
Hand County				
Hanson County				
Harding County				
Hughes County				
Hutchinson County				
Hyde County				
Jackson County				
Jerauld County				
Jones County				
Kingsbury County				
Lake County				
Lawrence County				
Lincoln County				
Lyman County				
Marshall County				
McCook County				
McPherson County				
Meade County				
Mellette County				
Miner County				
Minnehaha County				
Moody County				
Pennington County				
Perkins County				
Potter County				
Roberts County				
Sanborn County				
Shannon County				
Spink County				
Stanley County				
Sully County				
Todd County				
Tripp County				
Turner County				
Union County				
Walworth County				
Yankton County				
Ziebach County				

[1] This date is November 15, 1990, unless otherwise noted.

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44. In § 81.343, the table entitled ''Tennessee—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.343 Tennessee.

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TENNESSEE—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide		Unclassifiable/Attainment		
Anderson County				
Bedford County				
Benton County				
Bledsoe County				
Blount County				
Bradley County				
Campbell County				
Cannon County				
Carroll County				
Carter County				
Cheatham County				
Chester County				
Claiborne County				
Clay County				

TENNESSEE—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Cocke County				
Coffee County				
Crockett County				
Cumberland County				
DeKalb County				
Decatur County				
Dickson County				
Davidson County	10/30/96			
Dyer County				
Fayette County				
Fentress County				
Franklin County				
Gibson County				
Giles County				
Grainger County				
Greene County				
Grundy County				
Hamblen County				
Hamilton County				
Hancock County				
Hardeman County				
Hardin County				
Hawkins County				
Haywood County				
Henderson County				
Henry County				
Hickman County				
Houston County				
Humphreys County				
Jackson County				
Jefferson County				
Johnson County				
Knox County	10/27/93			
Lake County				
Lauderdale County				
Lawrence County				
Lewis County				
Lincoln County				
Loudon County				
Macon County				
Madison County				
Marion County				
Marshall County				
Maury County				
McMinn County				
McNairy County				
Meigs County				
Monroe County				
Montgomery County				
Moore County				
Morgan County				
Obion County				
Overton County				
Perry County				
Pickett County				
Polk County				
Putnam County				
Rhea County				
Roane County				
Robertson County				
Rutherford County	10/30/96			
Scott County				
Sequatchie County				
Sevier County				
Shelby County	2/16/95			
Smith County				
Stewart County				
Sullivan County				
Sumner County	10/30/96			
Tipton County				

TENNESSEE—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Trousdale County				
Unicoi County				
Union County				
Van Buren County				
Warren County				
Washington County				
Wayne County				
Weakley County				
White County				
Williamson County	10/30/96			
Wilson County	10/30/96			

[1] This date is November 15, 1990, unless otherwise noted.

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45. In § 81.344, the table entitled ''Texas—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.344 Texas.

* * * * * * *

TEXAS—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Beaumont/Port Arthur Area:				
Hardin County	.....	Nonattainment	6/03/96	Moderate.
Jefferson County	.....	Nonattainment	6/03/96	Moderate.
Orange County	.....	Nonattainment	6/03/96	Moderate.
Dallas-Fort Worth Area:				
Collin County	.....	Nonattainment	3/20/98	Serious.
Dallas County	.....	Nonattainment	3/20/98	Serious.
Denton County	.....	Nonattainment	3/20/98	Serious.
Tarrant County	.....	Nonattainment	3/20/98	Serious.
El Paso Area:				
El Paso County	.....	Nonattainment	.....	Serious.
Houston-Galveston-Brazoria Area:				
Brazoria County	.....	Nonattainment	.....	Servere-17.
Chambers County	.....	Nonattainment	.....	Servere-17.
Fort Bend County	.....	Nonattainment	.....	Servere-17.
Galveston County	.....	Nonattainment	.....	Servere-17.
Harris County	.....	Nonattainment	.....	Servere-17.
Liberty County	.....	Nonattainment	.....	Servere-17.
Montgomery County	.....	Nonattainment	.....	Servere-17.
Waller County	.....	Nonattainment	.....	Servere-17.
Longview Area:				
Gregg County	.....	Unclassifiable/Attainment		
Victoria Area:				
Victoria County	5/8/95	Attainment		
AQCR 022 Shreveport-Texarkana-Tyler Interstate	.....	Unclassifiable/Attainment		
Anderson County				
Bowie County				
Camp County				
Cass County				
Cherokee County				
Delta County				
Franklin County				
Gregg County				
Harrison County				
Henderson County				
Hopkins County				
Lamar County				
Marion County				
Morris County				
Panola County				
Rains County				
Red River County				
Rusk County				
Smith County				
Titus County				

TEXAS—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Upshur County				
Van Zandt County				
Wood County				
AQCR 106 S Louisiana-SE Texas Interstate (Remainder of)	.....	Unclassifiable/Attainment		
Angelina County, Houston County, Jasper County, Nacogdoches County, Newton County, Polk County, Sabine County, San Augustine County, San Jacinto County, Shelby County, Trinity County, Tyler County				
AQCR 153 El Paso-Las Cruces-Alamogordo Interstate	.....	Unclassifiable/Attainment		
Brewster County				
Culberson County				
Hudspeth County				
Jeff Davis County				
Presidio County				
AQCR 210 Abilene-Wichita Falls Intrastate	.....	Unclassifiable/Attainment		
Archer County, Baylor County, Brown County, Callahan County, Clay County, Coleman County, Comanche County, Cottle County, Eastland County, Fisher County, Foard County, Hardeman County, Haskell County, Jack County, Jones County, Kent County, Knox County, Mitchell County, Montague County, Nolan County, Runnels County, Scurry County, Shackelford County, Stephens County, Stonewall County, Taylor County, Throckmorton County, Wichita County, Wilbarger County, Young County				
AQCR 211 Amarillo-Lubbock Intrastate	.....	Unclassifiable/Attainment		
Armstrong County, Bailey County, Briscoe County, Carson County, Castro County, Childress County, Cochran County, Collingsworth County, Crosby County, Dallam County, Deaf Smith County, Dickens County, Donley County, Floyd County, Garza County, Gray County, Hale County, Hall County, Hansford County, Hartley County, Hemphill County, Hockley County, Hutchinson County, King County, Lamb County, Lipscomb County, Lubbock County, Lynn County, Moore County, Motley County, Ochiltree County, Oldham County, Parmer County, Potter County, Randall County, Roberts County, Sherman County, Swisher County, Terry County, Wheeler County, Yoakum County				
AQCR 212 Austin-Waco Intrastate	.....	Unclassifiable/Attainment		
Bastrop County				
Bell County				
Blanco County				
Bosque County				
Brazos County				
Burleson County				
Burnet County				
Caldwell County				
Coryell County				
Falls County				
Fayette County				
Freestone County				
Grimes County				
Hamilton County				
Hays County				
Hill County				
Lampasas County				
Lee County				
Leon County				
Limestone County				
Llano County				
Madison County				
McLennan County				
Milam County				
Mills County				
Robertson County				
San Saba County				
Travis County				
Washington County				

TEXAS—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Williamson County				
AQCR 213 Brownsville-Laredo Intrastate	.....	Unclassifiable/Attainment		
Cameron County				
Hidalgo County				
Jim Hogg County				
Starr County				
Webb County				
Willacy County				
Zapata County				
AQCR 214 Corpus Christi-Victoria Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Aransas County, Bee County, Brooks County, Calhoun County, De Witt County, Duval County, Goliad County, Gonzales County, Jackson County, Jim Wells County, Kenedy County, Kleberg County, Lavaca County, Live Oak County, McMullen County, Refugio County, San Patricio County,				
AQCR 214 Corpus Christi-Victoria Intrastate (part)	.....	Unclassifiable/Attainment		
Nueces County				
AQCR 215 Metro Dallas-Fort Worth Intrastate (Remainder of).	.....	Unclassifiable/Attainment		
Cooke County				
Ellis County				
Erath County				
Fannin County				
Grayson County				
Hood County				
Hunt County				
Johnson County				
Kaufman County				
Navarro County				
Palo Pinto County				
Parker County				
Rockwall County				
Somervell County				
Wise County				
AQCR 216 Metro Houston-Galveston Intrastate (Remainder of).	.....	Unclassifiable/Attainment		
Austin County, Colorado County, Matagorda County, Walker County, Wharton County				
AQCR 217 Metro San Antonio Intrastate (part)	.....	Unclassifiable/Attainment		
Bexar County				
AQCR 217 Metro San Antonio Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Atascosa County, Bandera County, Comal County, Dimmit County, Edwards County, Frio County, Gillespie County, Guadalupe County, Karnes County, Kendall County, Kerr County, Kinney County, La Salle County, Maverick County, Medina County, Real County, Uvalde County, Val Verde County, Wilson County, Zavala County				
AQCR 218 Midland-Odessa-San Angelo Intrastate (part)	.....	Unclassifiable/Attainment		
Ector County				
AQCR 218 Midland-Odessa-San Angelo Intrastate (Remainder of).	.....	Unclassifiable/Attainment		
Andrews County, Borden County, Coke County, Concho County, Crane County, Crockett County, Dawson County, Gaines County, Glasscock County, Howard County, Irion County, Kimble County, Loving County, Martin County, Mason County, McCulloch County, Menard County, Midland County, Pecos County, Reagan County, Reeves County, Schleicher County, Sterling County, Sutton County, Terrell County, Tom Green County, Upton County, Ward County, Winkler County				

[1] This date is November 15, 1990, unless otherwise noted.

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46. In § 81.345, the table entitled ''Utah—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.345 Utah.

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UTAH—OZONE (1-HOUR STANDARD)

Designation area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Salt Lake City Area:				
Davis County	8/18/97	Attainment		
Salt Lake County	8/18/97	Attainment		
Rest of State	.....	Unclassifiable/Attainment		
Beaver County				
Box Elder County				
Cache County				
Carbon County				
Daggett County				
Duchesne County				
Emery County				
Garfield County				
Grand County				
Iron County				
Juab County				
Kane County				
Millard County				
Morgan County				
Piute County				
Rich County				
San Juan County				
Sanpete County				
Sevier County				
Summit County				
Tooele County				
Uintah County				
Utah County				
Wasatch County				
Washington County				
Wayne County				
Weber County				

[1] This date is November 15, 1990, unless otherwise noted.

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47. In § 81.346, the table entitled ''Vermont—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.346 Vermont.

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VERMONT—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 159 Champlain Calley Interstate (part)				
Addison County Unclassifiable	.....	Unclassifiable/Attainment		
Chittenden County	.....	Unclassifiable/Attainment		
AQCR 159 Champlain Calley Interstate (Remainder of)	.....	Unclassifiable/Attainment		
Franklin County				
Grand Isle County				
Rutland County				
AQCR 221 Vermont Intrastate (part)	.....	Unclassifiable/Attainment		
Windsor County				
AQCR 221 Vermont Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Bennington County				
Caledonia County				
Essex County				
Lamoille County				
Orange County				
Orleans County				
Washington County				
Windham County				

[1] This date is November 15, 1990, unless otherwise noted.

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48. In § 81.347, the table entitled ''Virginia—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.347 Virginia.

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VIRGINIA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Norfolk-Virginia-Beach Newport News (Hampton Roads) Area.	7/28/97	Attainment		
Chesapeake				
Hampton				
James City County				
Newport News				
Norfolk				
Poquoson				
Portsmouth				
Suffolk				
Virginia Beach				
Williamsburg				
York County				
Richmond Area:				
Charles City County (part) Beginning at the intersection of State Route 156 and the Henrico/Charles City County Line, proceeding south along State Route 5/156 to the intersection with State Route 106/156, proceeding south along Route 106/156 to the intersection with the Prince George/Charles City County line, proceeding west along the Prince George/Charles City County line to the intersection with the Chesterfield/Charles City County line, proceeding north along the Chesterfield/Charles City County line to the intersection with the Henrico/Charles City County line, proceeding north along the Henrico/Charles City County line to State Route 156.	12/17/97	Attainment		
Chesterfield County	12/17/97	Attainment		
Colonial Heights	12/17/97	Attainment		
Hanover County	12/17/97	Attainment		
Henrico County	12/17/97	Attainment		
Hopewell	12/17/97	Attainment		
Richmond	12/17/97	Attainment		
Smyth County Area:				
Smyth County (part)	1/6/92	Nonattainment	1/6/92	Rural transport (Marginal).
The portion of White Top Mountain above the 4,500 foot elevation in Smyth County Washington Area:				
Washington Area:				
Alexandria		Nonattainment		Serious.
Arlington County		Nonattainment		Serious.
Fairfax		Nonattainment		Serious.
Fairfax County		Nonattainment		Serious.
Falls Church		Nonattainment		Serious.
Loudoun County		Nonattainment		Serious.
Manassas		Nonattainment		Serious.
Manassas Park		Nonattainment		Serious.
Prince William County		Nonattainment		Serious.
Stafford County		Nonattainment		Serious.
AQCR 207 Eastern Tennessee—SW Virginia Interstate (Remainder of).		Unclassifiable/Attainment		
Bland County				
Bristol				
Buchanan County				
Carroll County				
Dickenson County				
Galax				
Grayson County				
Lee County				
Norton				
Russell County				
Scott County				
Smyth County (part) Remainder of county				
Tazewell County				
Washington County				
Wise County				
Wythe County				
AQCR 222 Central Virginia Intrastate		Unclassifiable/Attainment		
Amelia County				

VIRGINIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Amherst County				
Appomattox County				
Bedford				
Bedford County				
Brunswick County				
Buckingham County				
Campbell County				
Charlotte County				
Cumberland County				
Danville				
Franklin County				
Halifax County				
Henry County				
Lunenburg County				
Lynchburg				
Martinsville				
Mecklenburg County				
Nottoway County				
Patrick County				
Pittsylvania County				
Prince Edward County				
South Boston				
AQCR 223 Hampton Roads Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Franklin				
Isle Of Wight County				
Southampton County				
AQCR 224 NE Virginia Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Accomack County				
Albemarle County				
Caroline County				
Charlottesville				
Culpeper County				
Essex County				
Fauquier County				
Fluvanna County				
Fredericksburg				
Gloucester County				
Greene County				
King and Queen County				
King George County				
King William County				
Lancaster County				
Louisa County				
Madison County				
Mathews County				
Middlesex County				
Nelson County				
Northampton County				
Northumberland County				
Orange County				
Rappahannock County				
Richmond County				
Spotsylvania County				
Westmoreland County				
AQCR 225 State Capital Intrastate (Remainder of)				
Charles City County (part)	.....	Unclassifiable/Attainment		
Remainder of County				
Dinwiddie County				
Emporia				
Goochland County				
Greensville County				
New Kent County				
Petersburg				
Powhatan County				
Prince George County				
Surry County				
Sussex County				
AQCR 226 Valley of Virginia Intrastate	.....	Unclassifiable/Attainment		
Alleghany County				
Augusta County				

VIRGINIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Bath County				
Botetourt County				
Buena Vista				
Clarke County				
Clifton Forge				
Covington County				
Craig County				
Floyd County				
Frederick County				
Giles County				
Harrisonburg				
Highland County				
Lexington				
Montgomery County				
Page County				
Pulaski County				
Radford				
Roanoke				
Roanoke County				
Rockbridge County				
Rockingham County				
Salem				
Shenandoah County				
Staunton				
Warren County				
Waynesboro				
Winchester				

[1] This date is November 15, 1990, unless otherwise noted.

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49. In § 81.348, the table entitled ''Washington—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.348 Washington.

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WASHINGTON—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Portland-Vancouver AQMA Area:				
Clark County (part)	.....	Attainment		
Air Quality Maintenance Area				
Seattle-Tacoma Area:				

WASHINGTON—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
The following boundary includes all of Pierce County, and all of King County except a small portion on the north-east corner and the western portion of Snohomish County: Starting at the mouth of the Nisqually river extend northwesterly along the Pierce County line to the southernmost point of the west county line of King County; thence northerly along the county line to the southernmost point of the west county line of Snohomish County; thence northerly along the county line to the intersection with SR 532; thence easterly along the north line of SR 532 to the intersection of I–5, continuing east along the same road now identified as Henning Rd., to the intersection with SR 9 at Bryant; thence continuing easterly on Bryant East Rd. and Rock Creek Rd., also identified as Grandview Rd., approximately 3 miles to the point at which it is crossed by the existing BPA electrical transmission line; thence southeasterly along the BPA transmission line approximately 8 miles to point of the crossing of the south fork of the Stillaguamish River; thence continuing in a southeasterly direction in a meander line following the bed of the River to Jordan Road; southerly along Jordan Road to the north city limits of Granite Falls; thence following the north and east city limits to 92nd St. N.E. and Menzel Lake Rd.; thence south-southeasterly along the Menzel Lake Rd. and the Lake Roesiger Rd. a distance of approximately 6 miles to the northernmost point of Lake Roesiger; thence southerly along a meander line following the middle of the Lake and Roesiger Creek to Woods Creek; thence southerly along a meander line following the bed of the Creek approximately 6 miles to the point the Creek is crossed by the existing BPA electrical transmission line; thence easterly along the BPA transmission line approximately 0.2 miles; thence southerly along the BPA Chief Joseph-Covington electrical transmission line approximately 3 miles to the north line of SR 2; thence southeasterly along SR 2 to the intersection with the east county line of King County; thence south along the county line to the northernmost point of the east county line of Pierce County; thence along the county line to the point of beginning at the mouth of the Nisqually River.	11/25/96	Attainment		
AQCR 062 E Washington-N Idaho Interstate (part)	11/25/96	Attainment		
Spokane County	.....	Unclassifiable/Attainment		
AQCR 062 E Washington-N Idaho Interstate (Remainder of)	.....	Unclassifiable/Attainment		
Adams County				
Asotin County				
Columbia County				
Garfield County				
Grant County				
Lincoln County				
Whitman County				
AQCR 193 Portland Interstate (Remainder of)	.....	Unclassifiable/Attainment		
Clark County (part) Remainder of county				
Cowlitz County				
Lewis County				
Skamania County				
Wahkiakum County				
AQCR 227 Northern Washington Intrastate	.....	Unclassifiable/Attainment		
Chelan County				
Douglas County				
Ferry County				
Okanogan County				
Pend Oreille County				
Stevens County				
AQCR 228 Olympic-Northwest Washington Intrastate	.....	Unclassifiable/Attainment		
Clallam County				
Grays Harbor County				
Island County				

WASHINGTON—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Jefferson County				
Mason County				
Pacific County				
San Juan County				
Skagit County				
Thurston County				
Whatcom County				
AQCR 229 Puget Sound Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
King County (Part) Remainder of County				
Kitsap County				
Snohomish County (Part) Remainer of County				
AQCR 230 South Central Washington Intrastate	.....	Unclassifiable/Attainment		
Benton County				
Franklin County				
Kittitas County				
Klickitat County				
Walla Walla County				
Yakima County				

[1] This date is November 15, 1990, unless otherwise noted.

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50. In § 81.349, the table entitled ''West Virginia—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.349 West Virginia.

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WEST VIRGINIA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Charleston Area:				
Kanawha County	10/6/94	Unclassifiable/Attainment		
Putnam County	10/6/94	Unclassifiable/Attainment		
Greenbrier Area:				
Greenbrier County	9/18/95	Unclassifiable/Attainment		
Huntington-Ashland Area:				
Cabell County	12/21/94	Unclassifiable/Attainment		
Wayne County	12/21/94	Unclassifiable/Attainment		
Parkersburg-Marietta Area:				
Wood County	10/6/94	Unclassifiable/Attainment		
Rest of State	.....	Unclassifiable/Attainment		
Barbour County				
Berkeley County				
Boone County				
Braxton County				
Brooke County				
Calhoun County				
Clay County				
Doddridge County				
Fayette County				
Gilmer County				
Grant County				
Hampshire County				
Hancock County				
Hardy County				
Harrison County				
Jackson County				
Jefferson County				
Lewis County				
Lincoln County				
Logan County				
Marion County				
Marshall County				
Mason County				
McDowell County				
Mercer County				
Mineral County				
Mingo County				

WEST VIRGINIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Monongalia County				
Monroe County				
Morgan County				
Nicholas County				
Ohio County				
Pendleton County				
Pleasants County				
Pocahontas County				
Preston County				
Raleigh County				
Randolph County				
Ritchie County				
Roane County				
Summers County				
Taylor County				
Tucker County				
Tyler County				
Upshur County				
Webster County				
Wetzel County				
Wirt County				
Wyoming County				

[1] This date is November 15, 1990, unless otherwise noted.

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51. In § 81.350, the table entitled ''Wisconsin—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.350 Wisconsin.

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WISCONSIN-OZONE (1–HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Door County Area:				
Door County	1/6/92	Nonattainment	1/6/92	Rural Transport (Marginal).
Kewaunee County Area:				
Kewaunee County	8/26/96	Attainment.		
Manitowoc County Area:				
Manitowoc County	1/6/92	Nonattainment	8/22/97	Moderate.[2]
Milwaukee-Racine Area:				
Kenosha County		Nonattainment		Severe—17.
Milwaukee County		Nonattainment		Severe—17.
Ozaukee County		Nonattainment		Severe—17.
Racine County		Nonattainment		Severe—17.
Washington County		Nonattainment		Severe—17.
Waukesha County		Nonattainment		Severe—17.
Sheboygan County Area:				
Sheboygan County	8/26/96	Attainment		
Walworth County Area:				
Walworth County	8/26/96	Attainment		
Adams County		Unclassifiable/Attainment		
Ashland County		Unclassifiable/Attainment		
Barron County		Unclassifiable/Attainment		
Bayfield County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Buffalo County		Unclassifiable/Attainment		
Burnett County		Unclassifiable/Attainment		
Calumet County		Unclassifiable/Attainment		
Chippewa County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Columbia County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Dane County		Unclassifiable/Attainment		
Dodge County		Unclassifiable/Attainment		
Douglas County		Unclassifiable/Attainment		
Dunn County		Unclassifiable/Attainment		

WISCONSIN-OZONE (1–HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Eau Claire County		Unclassifiable/Attainment		
Florence County		Unclassifiable/Attainment		
Fond du Lac County		Unclassifiable/Attainment		
Forest County		Unclassifiable/Attainment		
Grant County		Unclassifiable/Attainment		
Green County		Unclassifiable/Attainment		
Green Lake County		Unclassifiable/Attainment		
Iowa County		Unclassifiable/Attainment		
Iron County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Juneau County		Unclassifiable/Attainment		
La Crosse County		Unclassifiable/Attainment		
Lafayette County		Unclassifiable/Attainment		
Langlade County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Marathon County		Unclassifiable/Attainment		
Marinette County		Unclassifiable/Attainment		
Marquette County		Unclassifiable/Attainment		
Menominee County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Oconto County		Unclassifiable/Attainment		
Oneida County		Unclassifiable/Attainment		
Outagamie County		Unclassifiable/Attainment		
Pepin County		Unclassifiable/Attainment		
Pierce County		Unclassifiable/Attainment		
Polk County		Unclassifiable/Attainment		
Portage County		Unclassifiable/Attainment		
Price County		Unclassifiable/Attainment		
Richland County		Unclassifiable/Attainment		
Rock County		Unclassifiable/Attainment		
Rusk County		Unclassifiable/Attainment		
St. Croix County		Unclassifiable/Attainment		
Sauk County		Unclassifiable/Attainment		
Sawyer County		Unclassifiable/Attainment		
Shawano County		Unclassifiable/Attainment		
Taylor County		Unclassifiable/Attainment		
Trempealeau County		Unclassifiable/Attainment		
Vernon County		Unclassifiable/Attainment		
Vilas County		Unclassifiable/Attainment		
Washburn County		Unclassifiable/Attainment		
Waupaca County		Unclassifiable/Attainment		
Waushara County		Unclassifiable/Attainment		
Winnebago County		Unclassifiable/Attainment		
Wood County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.
[2] Attainment date temporarily delayed until November 15, 2007.

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52. In § 81.351, the table entitled ''Wyoming—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.351 Wyoming.

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WYOMING—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide		Unclassifiable/Attainment		
Albany County				
Big Horn County				
Campbell County				
Carbon County				
Converse County				
Crook County				
Fremont County				
Goshen County				
Hot Springs County				

WYOMING—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Johnson County Laramie County Lincoln County Natrona County Niobrara County Park County Platte County Sheridan County Sublette County Sweetwater County Teton County Uinta County Washakie County Weston County				

[1] This date is November 15, 1990, unless otherwise noted.

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53. In § 81.352, the table entitled ''American Samoa—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.352 American Samoa.

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AMERICAN SAMOA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide	.....	Unclassifiable/Attainment		

[1]This date is November 15, 1990, unless otherwise noted.

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54. In § 81.353, the table entitled ''Guam—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.353 Guam.

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GUAM—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide	.....	Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

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55. In § 81.354, the table entitled ''Northern Mariana Islands—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.354 Northern Mariana Islands.

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NORTHERN MARIANA ISLANDS—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Whole State	.....	Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

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56. In § 81.355, the table entitled ''Puerto Rico—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.355 Puerto Rico.

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PUERTO RICO—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide	.....	Unclassifiable/Attainment		
Adjuntas Municipio				
Aguada Municipio				
Aguadilla Municipio				
Aguas Buenas Municipio				
Aibonito Municipio				
Anasco Municipio				
Arecibo Municipio				
Arroyo Municipio				
Barceloneta Municipio				
Barranquitas Munic.				
Bayamon County				
Cabo Rojo Municipio				
Caguas Municipio				
Camuy Municipio				
Canovanas Municipio				
Carolina Municipio				
Catano County				
Cayey Municipio				
Ceiba Municipio				
Ciales Municipio				
Cidra Municipio				
Coamo Municipio				
Comerio Municipio				
Corozal Municipio				
Culebra Municipio				
Dorado Municipio				
Fajardo Municipio				
Florida Municipio				
Guanica Municipio				
Guayama Municipio				
Guayanilla Municipio				
Guaynabo County				
Gurabo Municipio				
Hatillo Municipio				
Hormigueros Municipio				
Humacao Municipio				
Isabela Municipio				
Jayuya Municipio				
Juana Diaz Municipio				
Juncos Municipio				
Lajas Municipio				
Lares Municipio				
Las Marias Municipio				
Las Piedras Municipio				
Loiza Municipio				
Luquillo Municipio				
Manati Municipio				
Maricao Municipio				
Maunabo Municipio				
Mayaguez Municipio				
Moca Municipio				
Morovis Municipio				
Naguabo Municipio				
Naranjito Municipio				
Orocovis Municipio				
Patillas Minicipio				
Penuelas Municipio				
Ponce Municipio				
Quebradillas Municipio				
Rincon Municipio				
Rio Grande Municipio				
Sabana Grande Municipio				
Salinas Municipio				
San German Municipio				
San Juan Municipio				
San Lorenzo Municipio				
San Sebastian Municipio				
Santa Isabel Municipio				
Toa Alta Municipio				

PUERTO RICO—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Toa Baja County Trujillo Alto Municipio Utuado Municipio Vega Alta Municipio Vega Baja Municipio Vieques Municipio Villalba Municipio Yabucoa Municipio Yauco Municipio				

[1] This date is November 15, 1990, unless otherwise noted.

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57. In § 81.356, the table entitled ''Virgin Islands—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.356 Virgin Islands.

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VIRGIN ISLANDS—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide ..... St. Croix St. John St. Thomas	.....	Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

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[FR Doc. 99–28031 Filed 11–4–99; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Friday
November 5, 1999

Part III

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Parts 552, 571, 585, and 595

Federal Motor Vehicle Safety Standards; Occupant Crash Protection; Proposed Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 552, 571, 585, and 595

[Docket No. NHTSA 99–6407; Notice 1]

RIN 2127–AG70

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: In September 1998, we proposed to upgrade our air bag requirements for passenger cars and light trucks to meet the twin goals mandated by the Transportation Equity Act for the 21st Century: improving protection for occupants of all sizes, belted and unbelted, in moderate to high speed crashes; and minimizing the risks posed by air bags to infants, children, and other occupants, especially in low speed crashes. In response to the public comments on our 1998 proposal and to other new information obtained since issuing the proposal, we are issuing a supplemental proposal that updates and refines the amendments under consideration.

With respect to the goal of improving protection, we are proposing to adopt one of the following alternative crash tests to evaluate the protection of unbelted occupants in moderate to high speed crashes, i.e., those that are potentially fatal. One alternative is an unbelted rigid barrier test (perpendicular and up to ± 30 degrees oblique to perpendicular) with a maximum speed to be established in the final rule within the range of 40 to 48 km/h (25 to 30 mph). If we reduce the maximum speed to 40 km/h (25 mph) permanently, we might also increase the maximum speed of the belted rigid barrier test from the current 48 km/h to 56 km/h (30 to 35 mph). Another alternative is an unbelted offset deformable barrier test with a maximum speed to be established in the final rule within the range of 48 to 56 km/h (30 to 35 mph). The vehicle would have to meet the requirements both in tests with the driver side of the vehicle engaged with the barrier and in tests with the passenger side engaged.

With respect to the goal of minimizing the risks of air bags in low speed crashes, we continue to propose performance requirements to ensure that future air bags do not pose unreasonable risk of serious injury to out-of-position occupants. We continue to propose to adopt a number of options for complying with those requirements so that vehicle manufacturers would be free to choose from a variety of effective technological solutions and to develop new ones if they so desire. With this flexibility, they could use technologies that modulate or otherwise control air bag deployment so deploying air bags do not cause serious injuries, technologies that prevent air bag deployment if children or out-of-position occupants are present, or a combination thereof.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than December 30, 1999.

ADDRESSES: You may submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. You may also submit your comments electronically by logging onto the Dockets Management System website at http://dms.dot.gov. Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically. Regardless of how you submit your comments, you should mention the docket number of this document.

You may call Docket Management at 202–366–9324 and visit the Docket from 10:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: *For information about air bags and related rulemakings:* Visit the NHTSA web site at http://www.nhtsa.dot.gov and select ''Air Bags'' under ''Popular Information.''

For non-legal issues, you may contact Clarke Harper, Chief, Light Duty Vehicle Division, NPS–11. Telephone: (202) 366–2264. Fax: (202) 366–4329. E-mail: Charper@NHTSA.dot.gov.

For legal issues, you may contact Edward Glancy, Office of Chief Counsel, NCC–20. Telephone: (202) 366–2992. Fax: (202) 366–3820.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

Note to readers: As an aid to readers who are outside the engineering community, we have provided at the end of this document a glossary that briefly explains the key technical terms used in this preamble. In the case of the term, ''fixed barrier crash test,'' we have supplemented the explanation with illustrations. That glossary appears in Appendix B. Interested persons may find it helpful to review that glossary before reading the rest of this document.

Table of Contents

I. Executive Summary

Since the early 1990's, NHTSA has been taking steps to reduce the risk that air bags will sometimes cause deaths, particularly to unrestrained children and small adults, and to maintain and improve the benefits of air bags. Our initial efforts to reduce the risks focused on a public education campaign to alert the public about the dangers of air bags to children in general and to infants in particular. We urged parents to place their children in the back seat whenever possible and to ensure that they were always properly restrained.

Later, to speed the redesigning and recertifying of air bags that reduce the risks to out-of-position occupants, we established a temporary option allowing vehicle manufacturers to certify their vehicles based on an unbelted sled test. The sled test is simpler, less expensive, and easier to meet than the pre-existing 30 mph unbelted crash test. Limited available data appear to indicate that these redesigned air bags have reduced the risks from air bags for the at-risk populations. However, it is not possible at this time to draw statistically significant conclusions about this.

There is a greater amount of data on the overall benefits of air bags. These data indicate that the redesigned air bags [1] provide essentially the same protection as that provided by earlier air bags. We have considered this information in light of agency tests showing that most of the tested vehicles, although certified to the sled tests, also passed the more stringent 30 mph unbelted crash test.

Manufacturers are developing an assortment of technologies, commonly referred to as advanced air bag technologies, to reduce the risks still further, for children, as well as adults. These technologies include dual-stage inflators which enable air bags to inflate with two different levels of power and which can be linked to various types of sensors including those that sense crash severity, belt use, and seat position (i.e., the location of a vehicle seat on its track). Occupant weight sensors and pattern sensors can be used to prevent an air bag from deploying at all in the presence of children.

These advanced air bag technologies are not just hypothetical possibilities; vehicle manufacturers are beginning to install them in an increasing variety of vehicles. The MY 1999 Hyundai Sonata has a weight sensor designed to prevent the passenger air bag from deploying unless a weight of more than 66 pounds is detected on the passenger seat. Honda introduced a dual stage inflator in its MY 1999 Acura. The MY 2000 Ford Taurus and Honda Accord, which are among the highest selling models in this country, have dual-stage air bags. Some luxury vehicles also have advanced air bag technologies. For example, Mercedes and BMW have dual-stage air bags in some of their MY 2000 cars. The MY 2000 Cadillac Seville has weight and pattern sensors in the passenger seat that work together to turn off the passenger air bag when children are present.

In the Transportation Equity Act for the 21st Century (TEA 21),[2] Congress mandated that we issue a final rule that requires the installation of air bags meeting, by means that include advanced air bag technologies, two goals: first, improving occupant protection for occupants of different sizes, regardless of whether they use their seat belts, and second, minimizing the risk to infants, children and other occupants of deaths and injuries caused by air bags. In accordance with TEA 21, we published a proposal in September 1998 to require the timely introduction of advanced air bags by all vehicle manufacturers and to establish procedures for testing the risk-reducing capabilities of the various types and combinations of advanced air bag technologies. Given the twin goals mandated by TEA 21, the proposal was necessarily both expansive and complex.

To meet the first goal of improving occupant protection, we proposed a variety of tests using belted and unbelted dummies. We also proposed adding a new dummy representing short-statured adult females. Included in these proposals was a proposal to terminate the unbelted sled test option so that vehicles with advanced air bags would be tested in unbelted barrier crashes. The sled test option was valuable as a short-run expedient to make it easier for manufacturers to bring redesigned air bags to market quickly. However, for the long-run purpose of testing air bags to ensure that they are, and that they will continue to be, effective in protecting people in real world crashes, the agency tentatively concluded that air bags should be evaluated in tests simulating those crashes. In particular, the agency proposed to rely on an unbelted 48 km/h (30 mph) rigid barrier crash test that approximates many of the real world crashes severe enough to pose significant risk of serious or fatal injury. Among the tests for belted occupants was a new 40 km/h (25 mph) offset deformable barrier test which was intended to evaluate the ability of crash sensors to sense soft pulse crashes.

With respect to the second goal of minimizing the risks of air bags, the very breadth of the different technological approaches for meeting that goal necessitated we make our proposal even more expansive and complex. We proposed to adopt in the final rule an array of tests to accommodate these different technological approaches and the different choices being made by individual manufacturers about which types of those technologies to adopt. In some cases, we were able to propose generic tests that are suitable for all advanced air bags. In other cases, however, we had to propose tests that are tailored to particular technologies and that would apply to only those air bags incorporating those technologies. This array of tests was intended to provide the manufacturers with technology and design flexibility, while providing the agency with effective means of evaluating the performance of all of the different advanced air bag systems.

The public comments and the agency research and analysis since our 1998 NPRM have enabled us to refine and in some cases simplify the proposed amendments that we are considering. In view of the importance of some of the changes, we have decided to publish this SNPRM to obtain further public comment before making any final decisions and issuing a final rule.

We have reduced the number of proposed dynamic and static tests, especially those relating to the proposed requirements for reducing the risks of air bags. We have reduced, from 14 to nine,[3] the number of proposed dynamic crash tests that would be applicable to all vehicles. We originally proposed that vehicles equipped with static air bag suppression systems (e.g., weight sensors and pattern sensors) be subject to being tested with any child restraint manufactured over a ten-year period.

[1] See footnote 15 for an explanation of the term, ''redesigned air bags.''

[2] The provisions in TEA 21 regarding air bags were contained in a part called The NHTSA Reauthorization Act of 1998. Given the greater public familiarity with the name TEA 21, we will refer to it, instead of the Reauthorization Act, in this document.

[3] The methodology for counting the number of proposed tests is explained later in this notice.

This would have created the possibility of testing with any one of several hundred different models of child restraints. Recognizing that, we solicited comments to aid us in identifying a much more limited number of specific models that would be representative of the array of available child restraints. Based on the public comments, we are now proposing to require that vehicles be able to meet the applicable requirements when tested with any one of a far more limited number of child restraints representing a cross-section of the restraints currently on the market.[4] We have also significantly reduced the number of positions in which test dummies or child restraints could be placed for testing a static suppression system. This was accomplished largely by eliminating positions that were substantially similar to other positions.

We are proposing to expressly provide that manufacturers may use children or small women instead of dummies in static tests to provide a basis for certifying compliance with the proposed tests for static suppression systems. These are simple tests in which the vehicle does not move, and the air bags cannot deploy. We are making this proposal because existing anthropomorphic test dummies were not designed to replicate the weight distribution of sitting humans in a manner that would adequately test all suppression technologies, e.g., pressure/pattern recognition sensors in the vehicle seat. Since the ultimate goal of our provisions concerning suppression systems is to achieve high reliability in detecting the presence of humans, the use of humans for the simple and limited purpose of testing the static suppression systems would make good sense. It is unnecessary to propose the use of infants for certification purposes, since all of the infant restraints should be detectable by any suppression system, regardless of whether they are occupied by a dummy or an infant.

We have eliminated the proposed test for dynamic automatic suppression systems (DASS) and the proposed full scale out-of-position test including pre-crash braking. Public comments and our further testing have led us to conclude that these tests would require enhancements to dummy biofidelity and test procedure development that we could not complete in time for this rulemaking. Further, the commenters did not suggest any workable, effective tests that we could propose as replacements.

Instead, we are taking a different approach that will provide flexibility to manufacturers that may wish in the future to certify advanced air bag systems incorporating a DASS to Standard No. 208. We believe that it is important in crafting our proposals regarding advanced air bags to facilitate efforts by the manufacturers to develop new and possibly better ways of reducing air bag risks. Accordingly, we are proposing to establish very general performance requirements for DASS and a special expedited petitioning and rulemaking process for considering procedures for testing advanced air bags incorporating one of these systems. Target time limits for each phase of such a rulemaking are proposed. Anyone wishing to market such advanced air bags could develop test procedures for demonstrating the compliance of their particular DASS with the performance requirements and submit those test procedures to the agency for its consideration. If the agency deems it appropriate to do so after evaluating the petition, the agency would publish a notice proposing to adopt the manufacturer's test procedure. After considering those comments, the agency would then decide whether the procedure should be added to Standard No. 208. If it decided to do so, and if the procedure were suitable for the DASS of any other vehicles, then the procedure could be used by those manufacturers of those vehicles as well as by the petitioning manufacturer. The agency intends to minimize the number of different test procedures that are adopted for DASS and to ensure ultimately that similar DASS are tested in the same way.

We have also decided to change our proposed injury criteria. We have decided to drop our proposal for a new combined thoracic index (CTI) and instead maintain separate limits for thoracic acceleration and deflection.[5] While CTI may be a better predictor of thoracic injury than chest acceleration and chest deflection independently, there is debate in the biomechanics community about the interpretation of the data. Consequently, we are pursuing further research to resolve the issues.

We are also proposing to change the existing head injury criterion (HIC) for the 50th percentile adult male dummy.[6] HIC is currently required not to exceed 1,000 and is evaluated over a 36 millisecond period. We are proposing to evaluate the HIC over a maximum 15 millisecond time interval with a requirement that it not exceed a maximum of 700. The agency historically has used a 36 millisecond time interval to measure HIC primarily because this method allowed the HIC measurement to indirectly capture risk of neck injury (until recently, a direct indication of neck injury risk was not a part of Standard 208). With the addition of specific neck injury criteria to Standard 208, the agency can switch to a 15 ms measurement interval which better corresponds to the underlying biomechanical research. We are proposing to change the HIC time interval to a maximum of 15 milliseconds for all dummy sizes and to revise the HIC limits by commensurate amounts, based on a scaling from the proposed new limit for the 50th percentile adult male dummy.

We are proposing a neck injury criteria (Nij) limit of 1.0, the calculation of which has been revised since the NPRM. In the NPRM, we requested comments on performance limits of Nij=1 and Nij=1.4. After considering the comments, the available biomechanical data, and testing which indicates that the more conservative or stringent value of 1.0 can be met in current production vehicles, we are proposing a limit of 1.0. The formulae underlying the calculation of Nij for smaller dummies incorporate scaling in recognition of the greater susceptibility of children to injury.

Finally, we are proposing two alternative crash tests for evaluating the effectiveness of an advanced air bag in protecting *unbelted* occupants in a relatively high speed crash. These tests would be conducted with dummies representing 50th percentile adult males as well as with ones representing 5th percentile adult females. We contemplate adopting one of these tests in a final rule, although we could decide to require elements of both alternatives. We believe that crashing a complete vehicle into a barrier is needed to address the type of situation for which air bags are designed: frontal crashes involving vehicles striking another object with sufficient force that the impact of an occupant with the steering wheel, dashboard, or other interior surface could result in severe injuries or death.

The first alternative is an unbelted rigid barrier test (perpendicular and up to ± 30 degrees oblique to perpendicular) with a maximum speed to be established in the final rule within the range of 40 to 48 km/h (25 to 30

[4] For the infant dummy, 19 different seats; for the 3-year-old dummy, 12 different seats; and for the 6-year-old dummy, 5 different seats. These figures are not additive since some seats are used for tests with two different dummies. A total of 24 seats (12 infant seats, 7 convertible seats, and 5 booster seats) would be used.

[5] The thorax is the chest area.

[6] HIC consists of a formula which utilizes data regarding the acceleration of the dummy head in vehicle tests to produce a number to determine compliance.

mph). This alternative is similar to the test included in our 1998 NPRM. The agency's intent in this rulemaking is to maximize, to the extent consistent with TEA 21, the protection that air bags offer in crashes potentially resulting in fatal injuries. Thus, the agency's preference is to establish such a test requirement at as high a severity as practicable. The 40 km/h (25 mph) lower end of the maximum test speed range is set forth for comment in this notice to ensure that commenters address a crash test recommended by the Alliance of Automobile Manufacturers in late August 1999. If we reduce the maximum speed to 40 km/h (25 mph) permanently, we might increase the maximum speed of the belted rigid barrier test from the current 48 km/h to 56 km/h (30 to 35 mph). The increase could go into effect after the TEA 21 phase-in period.

The second alternative is an unbelted offset deformable barrier test with a maximum speed to be established in the final rule within the range of 48 to 56 km/h (30 to 35 mph). The vehicle would have to meet the requirements both in tests with the driver side of the vehicle engaged with the barrier and in tests with the passenger side engaged. As in the case of the first alternative, if the agency selected this second alternative for the final rule, it would establish the maximum speed at as high a level as practicable, consistent with TEA 21, to maximize the improvement in occupant protection in potentially fatal crashes.

Regardless of which unbelted test or tests we ultimately adopt, we would retain a *belted* rigid barrier test with a maximum speed of 48 km/h (30 mph) with both 50th percentile adult male and 5th percentile adult female dummies during the TEA 21 phase-in period.[7] Further, we are continuing to propose an up-to-40 km/h (25 mph) offset deformable barrier test requirement, using belted 5th percentile adult female dummies.

We are also continuing to propose to eliminate provisions which allow original equipment (OE) and retrofit on-off switches under specified circumstances. Instead of proposing to phase these provisions out as advanced air bags are phased in, as proposed in the NPRM, we are proposing to allow OE and retrofit on-off switches to be installed under the same conditions that currently apply for all vehicles produced prior to September 1, 2005, the date by which all vehicles must have an advanced air bag system. We believe that by that time consumer confidence in the advanced air bag systems will be sufficiently strong to remove any desire for a manual on-off switch in vehicles produced with an advanced air bag.

NHTSA is proposing a replacement for the permanent sun visor label for vehicles certified as meeting the requirements of this proposed rule. The label would have new graphics and contain statements regarding belt use and seating children in the rear seat. In addition, we are proposing a new temporary label that states that the vehicle meets the new requirements for advanced air bags. This label would replace the existing temporary label and include statements regarding seat belt use and children in rear seats.

II. Background

A. Statutory Requirements

As part of TEA 21, Congress required us to issue an NPRM and final rule meeting two different, equally important goals:

> to *improve occupant protection* for occupants of different sizes, belted and unbelted, under Federal Motor Vehicle Safety Standard No. 208, *while minimizing the risk* to infants, children, and other occupants from injuries and deaths caused by air bags, *by means that include advanced air bags.*

(Emphasis added.)[8]

The Act provided that we were to issue the final rule by September 1, 1999. However, if we determined that the final rule could not be completed by that date, the Act provided that the final rule could be issued as late as March 1, 2000. Because of the complexity of the issues and the need to issue this SNPRM, we determined that the final rule could not be completed by September 1, 1999. Under the Act, the final rule must therefore be issued by March 1, 2000.

TEA 21 addressed various other issues, including the effective date for the final rule. A complete discussion of the Act's provisions is included in the 1998 NPRM. See 63 FR 49961.

B. Existing Air Bag Requirements

Pursuant to a provision in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Standard No. 208 requires all passenger cars and light trucks to provide automatic protection by means of air bags.[9]

The automatic protection requirements are performance requirements. The standard does not specify the design of an air bag. Instead, when tested under specified test conditions, vehicles must meet specified limits for injury criteria, including criteria for the head, chest and thighs, measured on 50th percentile adult male test dummies.

Until recently, these criteria limits had to be met for air bag-equipped vehicles in barrier crashes at speeds up to 48 km/h (30 mph), both with the dummies belted and with them unbelted. However, on March 19, 1997, we published a final rule providing manufacturers with the option of certifying the air bag performance of their vehicles with an unbelted dummy in a sled test incorporating a 125 millisecond standardized crash pulse instead of in a vehicle-to-barrier crash test. We made this amendment primarily to expedite manufacturer efforts to reduce the force of air bags as they deploy.

Under the March 1997 final rule, the sled test option was scheduled to terminate on September 1, 2001. We believed there was no need to permanently reduce Standard No. 208's performance requirements, since a variety of longer term alternatives were available to manufacturers to address adverse effects of air bags.

The September 1, 2001 termination date for the sled test option was superseded by a provision in TEA 21. In a paragraph titled ''Coordination of Effective Dates,'' the Act provides that the unbelted sled test option ''shall remain in effect unless and until changed by [the final rule for advanced air bags].''

C. September 1998 NPRM

Pursuant to TEA 21, on September 18, 1998, we published in the **Federal Register** (63 FR 49958) a notice of proposed rulemaking (NPRM) to upgrade Standard No. 208, *Occupant Crash Protection,* to require vehicles to

[7] As noted above, if we permanently reduce the maximum test speed for the unbelted rigid barrier test to 40 km/h (25 mph), we might increase the maximum test speed for the belted rigid barrier test to 56 km/h (35 mph), effective sometime after that phase-in period.

[8] The treatment by this provision of the twin goals and of the protection of belted and unbelted occupants differs significantly from the treatment that would have been given them by an earlier version of this mandate. That earlier version would have established a hierarchy of priorities, placing minimizing the risks of air bags above improving the protection they provide, and placing the protection of belted occupants above the protection of unbelted occupants.

[9] TEA 21 is thus the second in a succession of Congressional acts modifying the Department's 1984 final rule regarding automatic protection. That final rule mandated automatic protection, but explicitly provided discretion with respect to the type of automatic protection (automatic seat belts and air bags), and implicitly provided discretion with respect to the use of advanced air bag technologies. ISTEA eliminated the first area of discretion, mandating the installation of air bags. TEA 21 eliminates the second area of discretion, mandating the use of advanced air bag technologies.

be equipped with advanced air bags that meet new, more rigorous performance requirements. The advanced air bags would be required in some new passenger cars and light trucks beginning September 1, 2002, and in all new cars and light trucks beginning September 1, 2005.

As we explained in that document, air bags have been shown to be highly effective in saving lives. They reduce fatalities in frontal crashes by about 30 percent. However, they also sometimes cause fatalities to infants in rear facing child safety seats and out-of-position occupants.

In the 1998 NPRM, we presented a full discussion of the safety issues related to air bags. We also presented a discussion of our comprehensive plan to address air bag fatalities, which includes requiring advanced air bags as a long-term solution.

We proposed to add a new set of requirements to prevent air bags from causing injuries and to improve the protection that they provide occupants in frontal crashes. There would be several new performance requirements to ensure that the advanced air bags do not pose unreasonable risks to out-of-position occupants.

The NPRM gave alternative options for complying with those requirements so that vehicle manufacturers would be free to choose from a variety of effective technological solutions and to develop new ones if they so desire. With this flexibility, they could use technologies that modulate or otherwise control air bag deployment so deploying air bags do not cause serious injuries or that prevent air bag deployment if children or out-of-position occupants are present.

To ensure that the new air bags are designed to avoid causing injury to a broad array of occupants, we proposed test requirements using dummies representing 12-month-old, 3-year-old and 6-year-old children, and 5th percentile adult females, as well as tests representing 50th percentile adult males. We noted that many of the proposed test procedures were new, and specifically requested comments with respect to their suitability for measuring the performance of the various advanced systems under development.

We also proposed requirements to ensure that the new air bags are designed to cushion and protect an array of belted and unbelted occupants, including teenagers and small women. The standard's current dynamic crash test requirements specify the use of 50th percentile adult male dummies only. We proposed also to specify use of 5th percentile adult female dummies in dynamic crash tests. The weight and size of these dummies are representative of not only small women, but also many teenagers.

In addition to the existing rigid barrier test, representing a relatively ''stiff'' or ''hard'' pulse crash in perpendicular tests and a more moderate pulse crash in oblique tests, we proposed to add a deformable barrier crash test, representing a relatively ''soft'' pulse crash. This proposed new crash test requirement was intended to ensure that air bag systems are designed so that they do not deploy too late. Some current air bags deploy relatively late in certain types of crashes. If an air bag deploys too late, normally seated occupants may move too close to the air bag before it starts to inflate. In such a situation, the air bag is less likely to protect the occupant and may pose a risk to the occupant. We proposed to use 5th percentile adult female dummies in this test.

We also proposed to phase out the unbelted sled test option as we phased in requirements for advanced air bags. We acknowledged that the sled test option has been an expedient and useful temporary measure to ensure that the vehicle manufacturers could quickly redesign all of their air bags and to help ensure that some protection would continue to be provided. Nevertheless, we stated that we did not consider sled testing to be an adequate long-term means of assessing the extent of occupant protection that a vehicle and its air bag will afford occupants in the real world.

Finally, we proposed new and/or upgraded injury criteria for each of the proposed new test requirements, and also proposed to upgrade some of the injury criteria for the standard's existing test requirements.

D. Public Comments

We received comments from a wide range of interested persons including vehicle manufacturers, air bag manufacturers, insurance companies, public interest groups, academia, and government. Commenters generally supported the goals mandated by TEA 21—improving the benefits of air bags, while minimizing risks from air bags—but expressed widely differing views as to how to accomplish those goals.

In this section of the preamble, we summarize the comments, particularly those relating to the major issues. Because of the large number of public comments, we have included a representative sample of the comments and the commenters who made them.

1. Tests for Requirements To Improve Occupant Protection for Different Size Occupants, Belted and Unbelted

a. Belted Rigid Barrier Test.

A number of vehicle manufacturers opposed adding a belted rigid barrier test using 5th percentile adult female dummies. These commenters argued that this particular test is redundant given the existing belted barrier test using 50th percentile adult male dummies and the other proposed tests using 5th percentile adult female dummies.

The comments of the vehicle manufacturers on this issue were reflective of a more general theme running through their comments, i.e., they believed the NPRM was overly complex and included too many tests.

b. Unbelted Rigid Barrier Test.

Commenters had sharply different views on our proposal to phase out the unbelted sled test option and reinstate the up-to-48 km/h (30 mph) unbelted rigid barrier test. Many commenters, including all vehicle manufacturers and the Insurance Institute for Highway Safety (IIHS), strongly opposed reinstating the unbelted rigid barrier test. These commenters generally argued that reinstating this test would necessitate a return to ''overly aggressive'' air bags and that the test is not representative of typical real world crashes. Vehicle manufacturers requested that the sled test option remain available for the long term. On the issue of possible alternative unbelted tests, IIHS suggested that, if we wish to phase out the sled test, we should consider replacing it with a 56 km/h (35 mph) offset deformable barrier test.

On August 31, 1999, however, vehicle manufacturers and their trade associations, Alliance and AIAM, announced to the agency a recently reached consensus recommendation for an unbelted crash test. The industry recommended an unbelted rigid barrier crash test at 40 km/h (25 mph) using both 50th percentile adult male dummies and 5th percentile adult female dummies. The test would be conducted in the perpendicular mode only, i.e., there would be no oblique tests. No supporting data or written analyses were submitted to the agency at that meeting.

Other commenters, including a number of advocacy groups, argued that the up-to-48 km/h (30 mph) unbelted rigid barrier test is representative of a significant portion of real world crashes, and that improvements in vehicle and air bag designs will enable manufacturers to meet the test without

safety tradeoffs. Public Citizen argued that while the manufacturers attempt to blame the unbelted barrier test for the deaths and injuries caused by air bags, a closer examination suggests that manufacturers' design selection is the real cause of injuries. It further argued that TEA 21 contemplates that neither belted occupants nor unbelted occupants be favored under Standard 208 and that both deserve safe and effective protection by air bags.

c. Up-to-40 km/h (25 mph) Offset Deformable Barrier Test.

Commenters' views on the proposed up-to-25-mph belted offset deformable barrier test were mixed, but mostly supportive. Many commenters, including several advocacy groups and a number of vehicle manufacturers, supported the addition of an offset deformable barrier test.

Some vehicle manufacturers requested that the test be conducted only with the driver's side engaged, instead of with either side engaged as proposed in the NPRM. The Association of International Automobile Manufacturers (AIAM) stated that a test with the driver's side engaged would more likely produce ''worst case'' driver out-of-position locations and possible driver-side intrusion, and that a passenger side offset test would be redundant. Another suggestion made by some vehicle manufacturers was to conduct the test only at 40 km/h (25 mph), rather than at speeds up to 40 km/h (25 mph).

General Motors (GM) stated that it agreed with the addition of the offset deformable barrier test only if the unbelted sled test option remained in effect. GM stated that the offset deformable barrier test augments the sled test by addressing the crash sensing aspects of performance.

DaimlerChrysler argued that the addition of a 40 km/h (25 mph) belted offset deformable barrier test for the 5th percentile female is unnecessary in light of future ''depowered'' and/or advanced air bags. That commenter stated that injury risks to small occupants sitting near the driver air bag are adequately assessed using the proposed out-of-position, low-risk deployment tests, which it endorses.

Some vehicle manufacturers indicated that air bags might be designed so that they would not deploy in 40 km/h (25 mph) offset crashes.

2. Tests for Requirements To Minimize the Risk to Infants, Children and Other Occupants From Injuries and Deaths Caused by Air Bags

a. Tests to minimize risks to infants.

While commenters generally supported adding tests for infant safety, they raised a number of issues about the proposed tests.

The vehicle manufacturers opposed the proposal to test with any infant seat manufactured during approximately the 10 years prior to the date of vehicle manufacture, citing practicability concerns. A number of vehicle manufacturers also argued that the agency proposed too many test positions. Commenters raised numerous concerns about the specific details of the proposed test procedures.

Some commenters suggested that the agency require suppression in the presence of infants, instead of permitting a low-risk deployment option as well. These commenters cited uncertainties related to injury risk for infants and the lack of infant biomechanical data. They further questioned if there is any benefit from air bag deployments for infants.

A number of commenters also raised concerns about whether suppression devices will be ready in time to meet the requirements for advanced air bags, and how reliable they will be.

b. Tests to minimize risks to children.

Commenters' views on the proposed tests for child safety were similar to those for infant safety. While supportive of adding tests in this area, vehicle manufacturers raised concerns about the number of child restraints, number of tests, and, in some cases, availability of reliable suppression devices.

A number of commenters raised concerns about whether current child dummies are sufficiently human-like to be appropriate test devices for some of the advanced technologies under development. By way of example, concern was expressed that suppression devices that work by sensing the distributed weight pattern of a child on a seat may not recognize the pattern of a test dummy.

Commenters raised numerous technical issues concerning the proposed options for automatic suppression features that suppress the air bag when an occupant is out-of-position (S27 of the regulatory text proposed in the NPRM). Some commenters argued that the proposal to test automatic suppression features using a moving headform is not appropriate for some of the devices under development, such as sensors designed to track the full body of the occupant and not just the head. Others expressed difficulties related to defining the size, shape, and orientation of the suppression plane, as well as the maximum response time of the system.

Commenters also raised numerous technical issues concerning the dynamic out-of-position test (S29 of the regulatory text proposed in the NPRM). Some commenters stated that the dummy trajectories resulting in this test are unrealistic, and that the proposed vehicle crash test is neither repeatable nor reproducible. Others stated that the dummies do not move close enough to the air bag prior to deployment to represent a worst case out-of-position situation.

c. Tests to minimize risks to adults.

Commenters generally supported adding a low-risk deployment test using a 5th percentile adult female dummy at the driver seating position, although they raised a number of issues about the proposed test procedure. GM recommended that the driver low risk deployment test be made into a component test, outside of the vehicle.

Commenters also raised the same concerns about the proposed options for automatic suppression features that suppress the air bag when an occupant is out-of-position (S27) and for the dynamic out-of-position test (S29) as they did in the context of tests to minimize risks to children.

GM recommended that the agency also propose a low-risk deployment test using a 5th percentile adult female dummy at the passenger position. That company noted that if manufacturers selected the suppression (presence) option for child safety, there would be no out-of-position test limiting aggressivity for adult passengers.

3. Injury Criteria

Commenters raised numerous highly technical issues concerning several of proposed injury criteria and performance limits. Some commenters questioned the biomechanical basis for certain of the proposed new injury criteria. The AAMA suggested essentially a completely revised set of injury criteria.

E. Events Since September 1998

A number of events relevant to this rulemaking have occurred since publication of the NPRM in September 1998. First, the development of advanced air bags by suppliers and vehicle manufacturers has continued.

Acura introduced dual stage passenger side air bags in its MY 1999 Acura RL. According to Acura's press release, ''(t)he dual stage air bags were designed to reduce the inflation speed to help protect children or small-framed adults. In a low speed collision, the dual-stage inflator system is triggered in sequence resulting in slower air bag deployment with less initial force. In

higher speed collisions, both inflators operate simultaneously for full immediate inflation. The air bag system logic also controls the operation of the seat belt pretensioners. A new feature of the system detects whether the passenger's seat belt is fastened. If the seat belt is not fastened, the air bag deploys at full force at a lower collision speed to help offer more protection to the unbelted occupant.''

Ford publicly announced in January 1999 that it will introduce advanced technology enabling its cars and trucks to analyze crash conditions and to use the results of the analyses in activating safety devices to better protect a range of occupants in a variety of frontal crash situations. Ford stated that its Advanced Restraints System features nearly a dozen technologically advanced components that work together to give front-seat occupants significantly enhanced protection during frontal crashes, taking into account their seating position, safety belt use and crash severity. That company indicated that elements of the system, which features technologies such as crash severity sensors, a driver-seat position sensor, a passenger weight sensor, safety belt usage sensors, dual-stage inflating air bags, safety belt pretensioners and energy management retractors, will debut in vehicles beginning in the 1999 calendar year. Ford stated that the company will introduce these new technologies on new and significantly freshened models until all its passenger cars, trucks and sport utility vehicles have the complete Advanced Restraints System.

GM publicly announced in February 1999 that it will introduce technology in MY 2000 that is designed to detect the presence of a small child in the front passenger seat and suppress the deployment of the passenger frontal air bag in the event of a frontal crash. GM stated that weight-based sensors, coupled with pattern recognition technology, will distinguish between a child and a small adult female whose weight may be similar to a large child restrained in a child safety seat. If the front passenger seat is occupied by a small child, whether in a child safety seat or not, GM said that the air bag will not deploy. GM stated that it will introduce this technology on the Cadillac Seville in the 2000 calendar year, and that it has a roll-out plan to extend this technology throughout its product line.

We have received more detailed confidential information from GM and Ford concerning their plans, as well as confidential information from other auto manufacturers concerning their latest plans to introduce various advanced technologies. We have also received confidential information from suppliers.

Second, in April 1999, we held a public technical workshop concerning biomechanical injury criteria. The purpose of the workshop was to provide an additional opportunity for a continuing dialog with the biomechanics community and the public to assure that we considered appropriate injury criteria.

Third, we have analyzed the public comments and also conducted additional testing. We conducted additional tests of current vehicles with redesigned air bags to determine how they perform in 48 km/h (30 mph) rigid barrier crash tests. We selected vehicles that varied by class, stiffness, and manufacturer. We also used both 5th percentile adult female dummies and 50th percentile adult male dummies, belted and unbelted. We also conducted tests of several current vehicles with redesigned air bags to determine how they perform in 40 km/h (25 mph) rigid barrier crash tests, 48 km/h (30 mph) 30 degree right/left angular barrier tests (belted/unbelted), 56 km/h (35 mph) left/right side offset fixed deformable barrier crash tests, low speed 24 to 40 km/h (15 to 25 mph) offset deformable crash tests and static out-of-position tests. We also conducted sled tests at different crash severities with 95th percentile adult male dummies and MY 1999 and MY 1997 replacement air bags.

Fourth, we have continued to analyze available data to see how redesigned air bags are performing in the real world. We analyzed 1996 to 1998 Fatality Analysis Reporting System (FARS) data and found essentially the same number of fatalities in frontal impacts for MY 1996 vehicles in 1996 FARS (730), as in MY 1997 vehicles in 1997 FARS (776), as in MY 1998 vehicles in 1998 FARS (732). The fatality rates per million registered vehicles indicate that MY 1996 (56 per million registered vehicles) had essentially the same fatality rates as MY 1997 vehicles (55), while MY 1998 vehicles had a lower fatality rate (50). After controlling for safety belt use rates, that is, estimating the number of fatalities in each year if all three years had the same 1998 usage rate, the fatality rates per million registered vehicles were the same for MY 1996 and MY 1997 (53), while MY 1998 had a lower fatality rate (50). Since an estimated 87 percent of MY 1998 vehicles have redesigned air bags, this suggests that there is essentially the same or slightly better protection provided by the redesigned air bags compared to pre-MY 1998 air bags. In assessing the significance of this information, we will consider the agency tests in which most of the tested vehicles, although certified to the sled tests, met or exceeded the historical performance requirements of the 48 km/h (30 mph) rigid barrier crash test.

Another analysis compared the percent of fatalities in frontal impacts to all impacts for MY 1996 vehicles in calendar year 1996 (38.9%), to MY 1997 vehicles in calendar year 1997 (41.3%), and to MY 1998 vehicles in the first 6-months of calendar year 1998 (39.6%). As noted above, most of the MY 1998 vehicles have redesigned air bags. No statistically significant difference was found between the three sets of data. Again, this implies that the overall protection provided by the redesigned air bags is essentially the same as that provided by pre-MY 1998 air bags.

Fifth, on August 31, 1999, and again on September 14, 1999, the vehicle manufacturers and their trade associations met with the agency and presented a consensus recommendation for an unbelted crash test. The industry recommended an unbelted rigid barrier crash test at 40 km/h (25 mph) using both 50th percentile adult male dummies and 5th percentile adult female dummies. A letter regarding this recommendation was received from the Alliance (dated September 2, 1999).[10]

In a letter dated September 16, 1999, an assortment of commenters, including vehicle manufacturers, vehicle insurers, the American Automobile Association, the National Automobile Dealers Association, the American International Automobile Dealers Association, the American Trauma Society, the National Safety Council, IIHS, and the National Association of Governors' Highway Safety Representatives, opposed a return to the 30 mph unbelted rigid barrier test. This letter argued that a return to this test would require an overall increase in air bag maximum energy levels with a concomitant increase in risk. No supporting data or analysis

[10] This letter recommended that the agency adopt the following unbelted barrier test as an alternative to the current unbelted sled test:

A 40 km/h (25 mph) unbelted rigid barrier, using 5th percentile adult female dummies and 50th percentile adult male dummies, and the injury criteria recommended by AAMA in its Dec 98 submission to agency and endorsed by the Alliance in 1999. The test would be conducted perpendicularly only at 25 mph (w/ allowance for test variability) only, *not* up to 25 mph. The test would be fully phased-in during TEA 21 phase-in period (MY's 2003–2006). Further, optional early compliance should be allowed. Upon publication of final rule, vehicle manufacturers should be allowed to comply with this recommended test (as opposed to either the sled test or 30 mph unbelted rigid barrier test), even in the absence of compliance with requirements intended to reduce the risks associated with air bags.

accompanied the letter. The letter also urged that NHTSA focus this rulemaking on reducing the risk of air bags to children and others, especially in low speed crashes, as compared to the agency's attempting to increase air bag-related benefits for unbelted occupants in higher speed crashes.

In a letter dated September 29, 1999, Public Citizen, the Center for Auto Safety, and Parents for Safer Air Bags stated that they were ''concerned by news reports that a consortium of vehicle manufacturers and insurers is pressing the agency not to reinstate the 30 mph barrier crash test for unbelted occupants.'' These organizations argued that the industry's position is based on the erroneous premise that protection of unbelted occupants in high-speed collisions causes the bags to be hazardous to small occupants in low-speed collisions.[11] They also argued that abandonment of the unbelted 30 mph unbelted test would obviate the very purpose of the present rulemaking, the development and introduction of advanced air bags, and result in the use of generic ''lowest common denominator'' systems that can be readily be fitted in any vehicle but which seriously compromise safety. The letter stated that it should not be forgotten that air bags were originally conceived to protect unbelted occupants in horrific frontal collisions, and that this remains their principal efficacy to this day.

III. SNPRM for Advanced Air Bags

A. Introduction

Our primary goals in this rulemaking continue to be those set for us by TEA 21, i.e., to improve occupant protection for occupants of different sizes, belted and unbelted, while minimizing the risk to infants, children, and other occupants from injuries and deaths caused by air bags. Further, we are seeking to ensure that the needed improvements in occupant protection are made in accordance with the statutory implementation schedule. After carefully reviewing the comments on the NPRM and other available information, we have developed an SNPRM to accomplish these goals.

In developing this SNPRM, we focused on picking the most appropriate tests so that we could reduce the number of originally proposed tests without significantly affecting the benefits of the NPRM. We were persuaded by the commenters that reducing the amount of testing was important, given resource limitations, and the costs to manufacturers associated with certifying vehicles to such a large number of new test requirements. At the same time, we wanted to be sure that the SNPRM includes sufficient tests to ensure that air bags are redesigned to meet the goals mandated by TEA 21.

Given the continued debate over what requirements should be relied upon to ensure protection to unbelted occupants, we also wanted to be sure that we have considered and received the benefit of public comments on the various alternative approaches reflecting the views and information now available to us.

The most significant differences between the NPRM and the SNPRM can be summarized as follows:

- *Two alternative unbelted tests.* While we proposed one unbelted test in the NPRM, an up-to-48 km/h (30 mph) rigid barrier test, we are proposing and seeking comments on two alternative unbelted tests in this SNPRM. The first alternative is an unbelted rigid barrier test with a minimum speed of 29 km/h (18 mph) and a maximum speed to be established within the range of 40 to 48 km/h (25 to 30 mph). Within this alternative, the potential exists for a phase-in sequence in which the maximum speed would initially be set at 40 km/h (25 mph) to provide vehicle manufacturers additional flexibility when they are introducing advanced air bags during the phase-in. Under this phase-in sequence, the final rule could provide that a maximum speed of 48 km/h (30 mph) would apply after a reasonable period of time. If we reduce the maximum speed to 40 km/h (25 mph) permanently, we might also increase the maximum speed of the belted rigid barrier test from the current 48 km/h to 56 km/h (30 to 35 mph). The second alternative is an unbelted offset deformable barrier test with a minimum speed of 35 km/h (22 mph) and a maximum speed to be established within the range of 48 to 56 km/h (30 to 35 mph). The latter alternative was developed in response to a recommendation made by IIHS in its comment on the NPRM.[12] We are proposing the 29 and 35 km/h (18 and 22 mph) lower ends of the ranges of test speeds because we want to be sure that the standard does not inadvertently create incentives to push deployment thresholds downward, i.e., cause air bags to be deployed at lower speeds.
- *Possible higher speed belted rigid barrier test.* We are also specifically requesting comment on a similar option for the belted test requirement, in which a 48 km/h (30 mph) test would be in effect through the TEA 21 phase-in, to be subsequently replaced with a 56 km/h (35 mph) test, using both 5th percentile adult female and 50th percentile adult male dummies.
- *Reduced number of tests.* We have significantly reduced the total number of proposed tests. In a number of situations, we have tentatively concluded that a proposed test could be deleted because the performance we sought to secure by means of that test would largely be assured by one or more of the other tests.
- *Reduced offset testing.* The proposed up-to-40 km/h (25 mph) offset crash test using belted 5th percentile adult female dummies would be conducted only with the driver side of the vehicle engaged, instead of both with the driver side and with the passenger side engaged.
- *Ensuring that certain static suppression systems can detect real children and adults.* For our proposed static test requirements for systems (*e.g.*, weight sensors) which suppress air bags in the presence of infants and children, we are proposing a new option which would permit manufacturers to certify to requirements referencing children, instead of 3-year-old and 6-year-old child dummies, in a stationary vehicle to test the suppression systems. (This option would not apply to systems designed to suppress the air bags only when an infant is present.) Adult human beings could also be used in the place of 5th percentile adult female dummies for the portions of those static test requirements which make sure that the air bag is activated for adults. Steps would be taken to ensure the safety of all subjects used for these tests.
- *Reduced number of child restraints used for testing suppression systems.* Instead of requiring manufacturers to assure compliance of a vehicle in tests using any child restraint which was manufactured for sale in the United States any time during a specified period prior to the manufacture of the vehicle, we would require them to assure compliance using any child restraint on a relatively short list of specific child restraint models. Those models would be chosen to be representative of the array of available child restraints. The list would be

[11] The letter argued that the safety record of many well-designed air bag systems over a ten year period belies this premise. The letter stated that a variety of design features allow for protection of unbelted occupants in severe crashes without imposing significant inflation risks in low-speed collisions, and cited vehicle structures with a longer crash pulse, variable inflation forces based on crash severity, higher thresholds (including ''dual thresholds'') and laterally-biased inflation.

[12] IIHS's views have changed since making that recommendation. Its current views are discussed below.

updated from time to time to reflect changes in the types of available child restraints.

- *Modified requirements for systems that suppress the air bag for out-of-position occupants.* We have significantly modified the proposed requirements for systems that suppress the air bag when an occupant is out of position during a crash. In the NPRM, we proposed a single test procedure for all types of such suppression systems. We were persuaded by the commenters that the proposed test procedure was not appropriate for some of the systems that are currently under development. Because we did not have sufficient information or prototype hardware to develop a new test procedure, and because no one test procedure may be appropriate for a number of comparably effective suppression technologies, we are proposing a provision that would permit manufacturers or others to petition the agency to establish technology-specific test procedures under an expedited rulemaking process.
- *No full scale dynamic out-of-position test requirements.* We are eliminating from this rulemaking the proposed option for full scale dynamic out-of-position test requirements (the option which included pre-impact braking as part of the test procedure). We were persuaded by the commenters that the proposed test procedure is not workable at this time. Moreover, we believe this option is unnecessary at this time, since other options are available for the range of effective technologies we understand to be under development.

The existing tests that would be retained as well as those proposed in this SNPRM are identified in Figures 1a, 1b and 2, below. Figures 1a and 1b show the two alternative sets of test requirements to improve occupant protection for different size occupants, belted and unbelted, in moderate to high speed crashes. Figure 2 shows test requirements to minimize the risk to infants, children, and other occupants from injuries and deaths caused by air bags, especially in low speed crashes.

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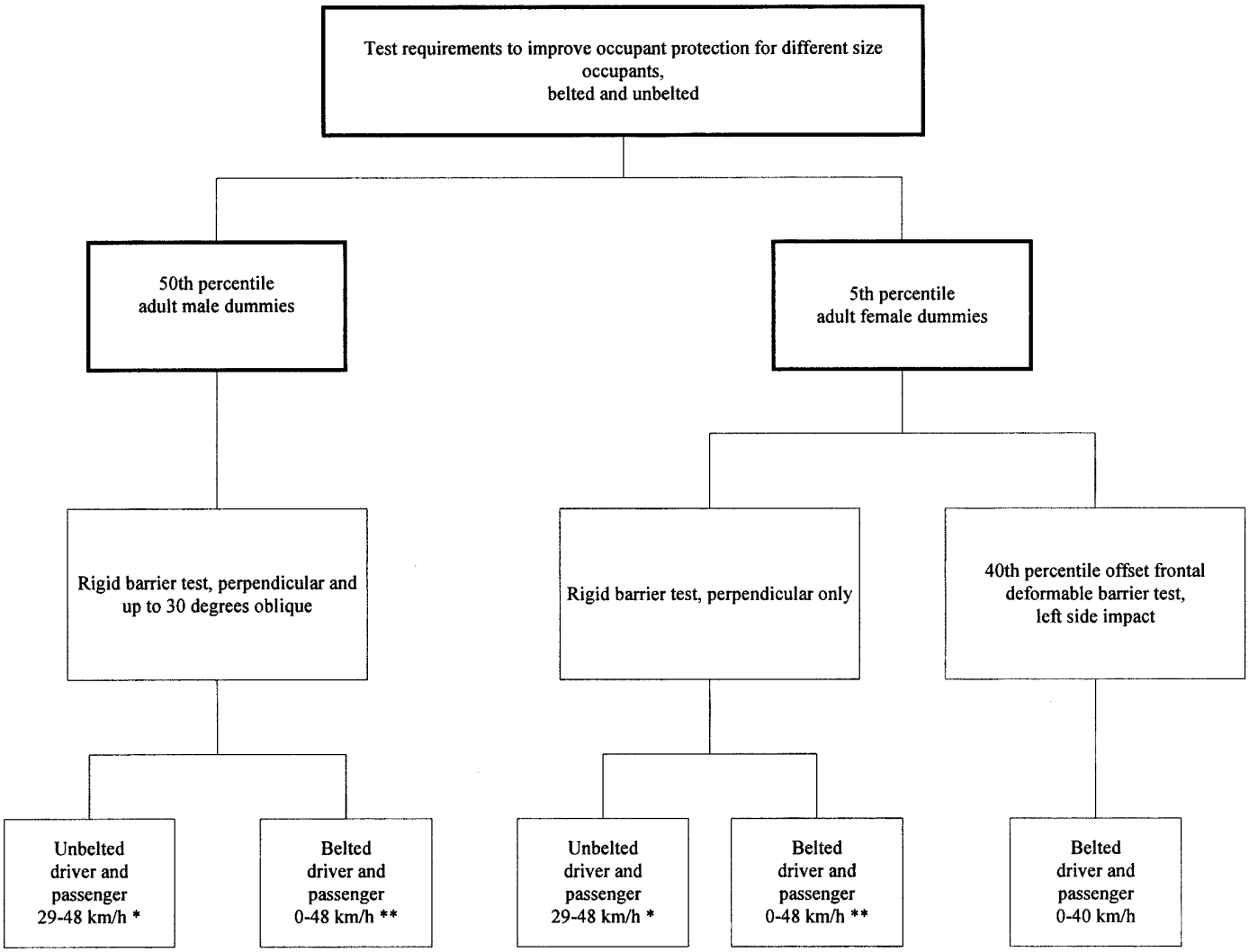
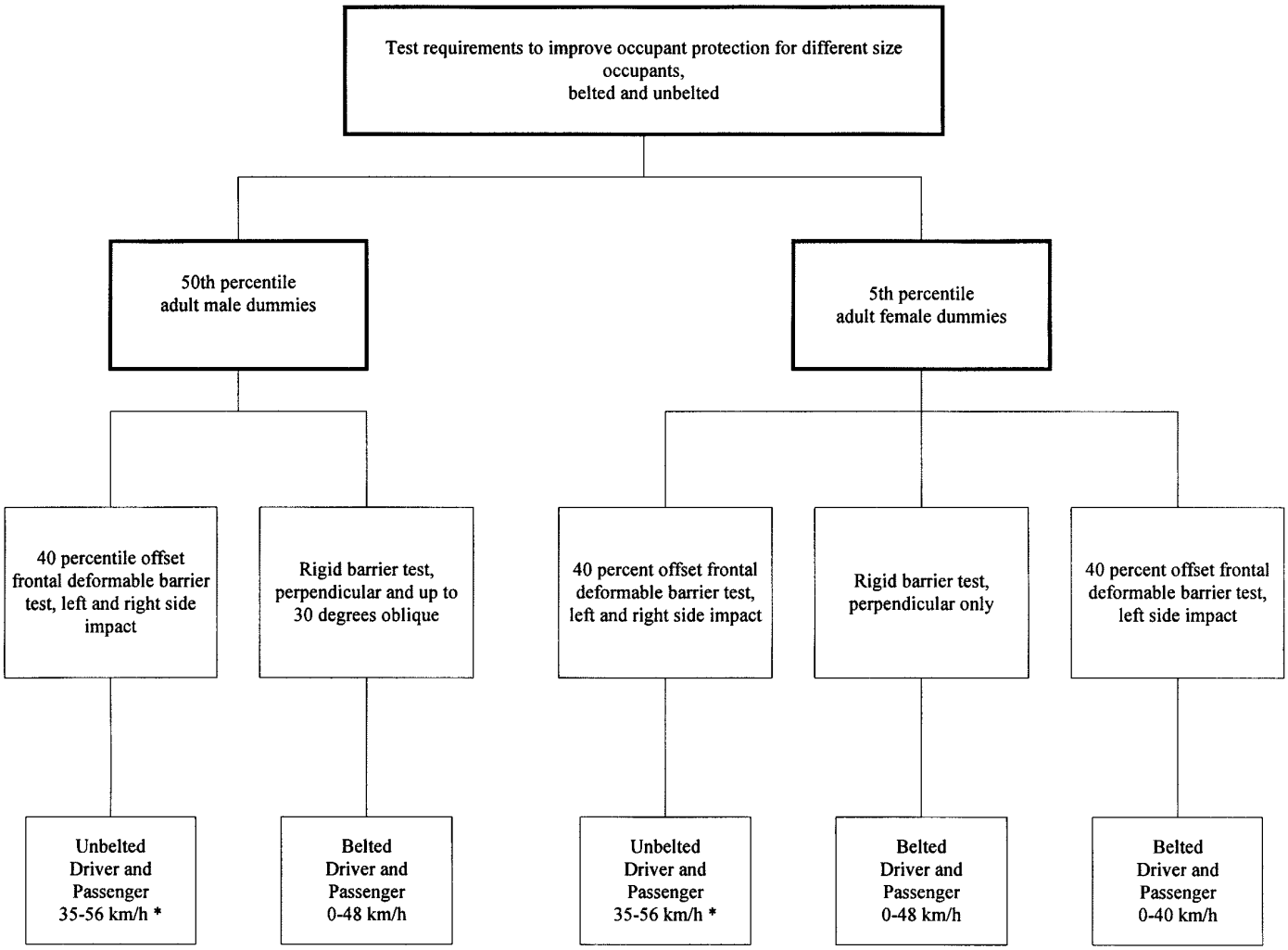


* The maximum speed would be established within the range of 40 to 48 km/h (25 to 30 mph)

** The maximum speed might be established at 56 km/h (35 mph) if the maximum speed for the unbelted rigid barrier test were permanently reduced to 40 km/h (25 mph)

Figure 1a. Alternative 1: Test Requirements to Improve Occupant Protection for Different Size Occupants, Belted and Unbelted



* The maximum speed would be established within the range of 48 to 56 km/h (30 to 35 mph)

Figure 1b. Alternative 2: Test Requirements to Improve Occupant Protection for Different Size Occupants, Belted and Unbelted

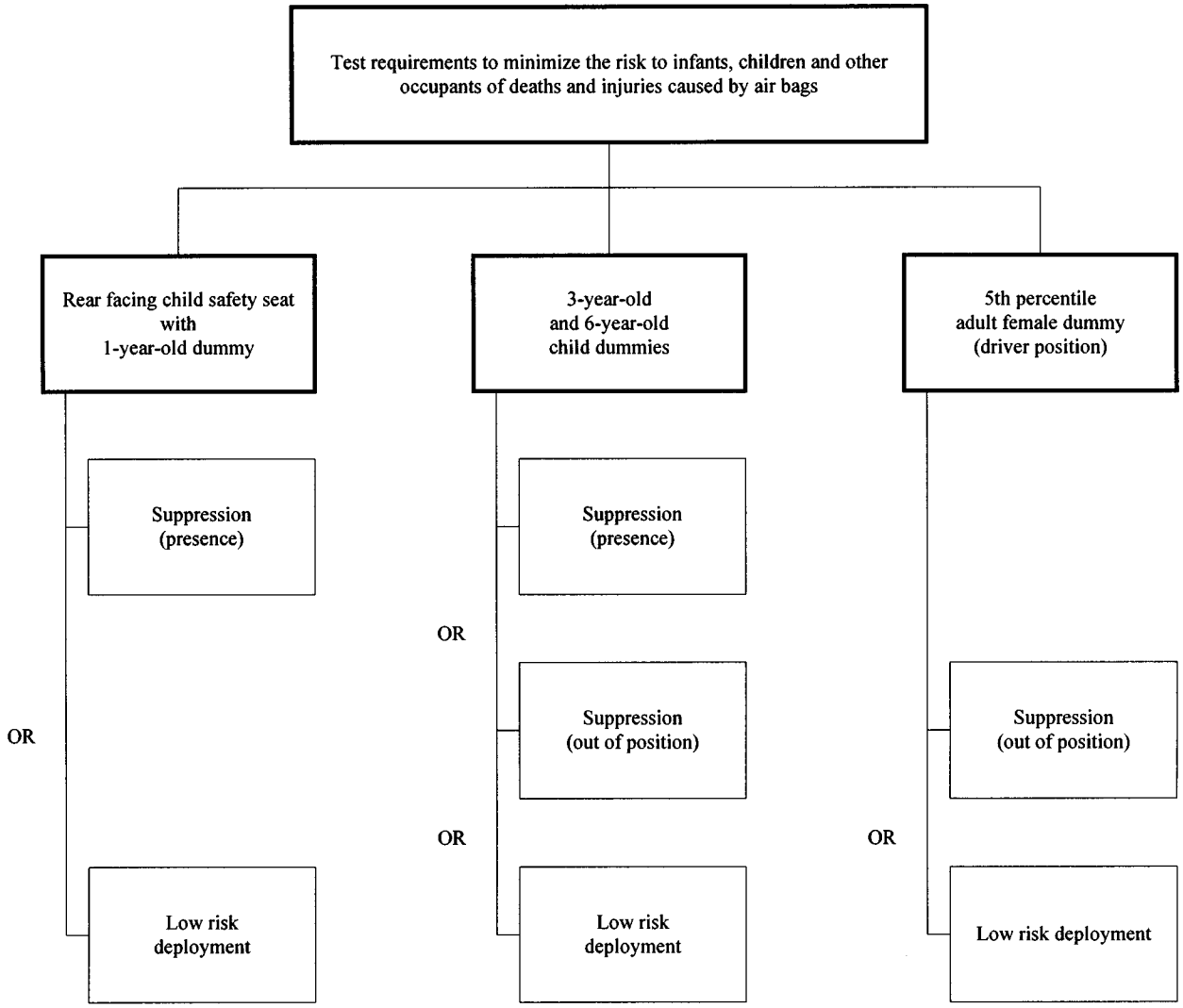


Figure 2. Test Requirements to Minimize the Risk to Infants, Children, and Other Occupants from Injuries and Deaths Caused by Air Bags

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A discussion of the specific proposed test requirements follows. We will first discuss requirements to improve protection for different size occupants, belted and unbelted, and will then discuss requirements to minimize risks from air bags. We also discuss in detail the major differences from the NPRM.

B. Existing and Proposed Test Requirements

1. Tests for Requirements To Improve Occupant Protection for Different Size Occupants, Belted and Unbelted

a. September 1998 NPRM.

In the NPRM, we proposed test requirements to improve occupant protection for different size occupants, belted and unbelted. The proposed requirements included rigid barrier tests and offset deformable barrier tests.

Under the proposed rigid barrier test requirements in the NPRM, vehicles would have been required to meet injury criteria performance limits, including ones for the head, neck, chest, and femurs, measured on 50th percentile adult male and 5th percentile adult female test dummies during rigid barrier crash tests at any speed up to 48 km/h (30 mph) and over the range of vehicle-to-crash-barrier angles from -30 degrees to +30 degrees. Tests with 50th percentile adult male dummies would be conducted with the vehicle seat in the mid-track position; tests with 5th percentile adult female dummies would be conducted with the vehicle seats in the full forward position.[13] Vehicles were to meet the injury criteria with belted and unbelted dummies. The purpose of the rigid barrier tests was to help ensure that vehicles protect different size occupants, belted and unbelted, from risk of serious or fatal injury in moderate to high speed crashes.

Under the proposed offset deformable barrier test requirements, vehicles would have been required to meet injury criteria performance limits during an up-to-40 km/h (25 mph) frontal offset deformable barrier test, using belted 5th percentile adult female dummies. The frontal offset test would have been conducted with either the driver side of the vehicle or the passenger side of the vehicle engaged with the barrier. The purpose of this test was to help ensure that vehicle manufacturers design their crash sensing and software systems to adequately address soft and long duration crash pulses.

Our NPRM would have required as many as a total of 14 crash tests to improve occupant protection. This number is based on counting each rigid barrier test specifying use of a particular dummy as three tests, reflecting the assumption that, for typical vehicle and air bag designs, there would be three worst case conditions: 48 km/h (30 mph) at -30 degrees, 48 km/h (30 mph) at 0 degrees, and 48 km/h (30 mph) at +30 degrees.[14]

Our proposed requirements for improving occupant protection in potentially fatal crashes differed from the existing Standard No. 208 in several important respects.

First, vehicles would for the first time be required to be certified to crash test requirements using 5th percentile adult female dummies, which would be seated in the full forward seat track position. Historically, the standard has only specified the use of 50th percentile adult male dummies seated further back.

Second, vehicles would be required for the first time to meet neck injury criteria performance limits in a crash test. Neck injuries are a particular concern for persons sitting close to the air bag.

Third, vehicles would for the first time be required to comply with injury criteria limits in a 40 km/h (25 mph) frontal offset deformable barrier test with belted 5th percentile adult female dummies. The only frontal crash tests previously specified by the standard were rigid barrier tests.

Fourth, we proposed to phase out the unbelted sled test option and return to the up-to-48 km/h (30 mph) unbelted rigid barrier test requirement.[15] However, it would be more than simply returning to the previous test requirement, since the unbelted rigid barrier test would now be conducted with 5th percentile adult female dummies as well as 50th percentile adult male dummies. In addition, we proposed added injury criteria for the chest and neck.

We proposed to phase out the sled test option as we phased in the requirements for advanced air bags. We stated that while we believe the sled test option has been an expedient and useful temporary measure to ensure that the vehicle manufacturers could quickly redesign all of their air bags and to help ensure that some protection would continue to be provided by air bags, we did not consider sled testing to be an adequate long-term means of assessing the extent of occupant protection that a vehicle and its air bag will afford occupants in real world crashes.

We noted that the sled test, first, does not address vehicle factors that can significantly affect the level of protection provided in the real world and, second, is not representative of a significant number of potentially fatal real world crashes. Each of these limitations is significant. The first means that sled test results may have limited relationship to real world performance in many types and levels of severity of crash. The second means that sled test results may not be a good measure of air bag performance in the kinds of crashes in which air bags are supposed to save lives. While we proposed to return to the up-to-48 km/h (30 mph) unbelted rigid barrier test requirement, we requested comments on possible alternative unbelted crash test requirements.

b. Comments on 1998 NPRM.

Our proposal to reinstate the up-to-48 km/h (30 mph) unbelted rigid barrier test requirement was by far the most extensively debated issue of this rulemaking. As noted earlier, commenters had sharply different views on this aspect of the NPRM. In their initial comments, motor vehicle manufacturers and their trade associations strongly opposed returning to the up-to-48 km/h (30 mph) unbelted rigid barrier test and urged that the sled test option remain in effect permanently. They argued that reinstating the up-to-48 km/h (30 mph) unbelted rigid barrier test would prevent continued use of ''depowered'' air bags and require a return to ''overly aggressive'' air bags and that the test is not representative of typical real world crashes. They argued that the sled test includes a crash pulse that is more representative of typical real world crashes.

On August 31, 1999, however, vehicle manufacturers and their trade associations presented to the agency a

[13] More specifically, the seat would be placed in the full forward position if the 5th percentile adult female dummy can be placed in the seat when it is in that position. Otherwise, the seat is moved back to the closest position to full forward that will allow the dummy to be placed in the seat.

[14] The count of 14 tests reflects four rigid barrier tests (belted 50th percentile adult male dummy, unbelted 50th percentile adult male dummy, belted 5th percentile adult female dummy, and unbelted 5th percentile adult female dummy), each of which are counted as three tests. Thus, the rigid barrier tests account for 12 of the 14 tests. The other two tests were the offset test with the driver side of the vehicle engaged with the barrier, and the offset test with the passenger side of the vehicle engaged with the barrier.

[15] We explained in the NPRM that we added the sled test to Standard No. 208 in March 1997 as a temporary option to simplify and expedite the testing and certification of redesigned air bags that inflate less aggressively. We did so because the lead time needed for the relatively straightforward redesign measures contemplated by the manufacturers for MY 1998 vehicles, including the reduction of inflator power, was significantly shorter than the lead time for the technological solutions that are the subject of this rulemaking.

consensus recommendation for an unbelted crash test. The industry recommended an unbelted rigid barrier crash test at 40 km/h (25 mph) using both 50th percentile adult male dummies and 5th percentile adult female dummies. The test would be conducted in the perpendicular mode only, i.e., there would be no unbelted oblique tests. Industry representatives argued that oblique tests are not needed to ensure wide air bags as vehicle manufacturers will provide them in light of other considerations, e.g., general safety considerations, the 48 km/h (30 mph) belted rigid barrier crash testing, and IIHS and European high speed belted offset deformable barrier testing.

In its comments on the NPRM, IIHS also opposed returning to the up-to-48 km/h (30 mph) unbelted rigid barrier test, for reasons similar to those cited by the vehicle manufacturers. However, that organization suggested that if we wish to phase out the sled test, we should consider replacing it with the 56 km/h (35 mph) European offset crash into a deformable barrier, using unbelted dummies, instead of the rigid barrier test. IIHS stated that this configuration would address not only protection in asymmetric crashes, but also some issues of intrusion that are related to restraint system performance, e.g., steering column movement. IIHS also stated that adoption of this test would be in the direction of harmonizing European and U.S. test procedures, the only difference being using unbelted versus belted dummies.

On September 14, 1999, however, IIHS advised us that it now believes that an unbelted 56 km/h (35 mph) offset deformable barrier crash test would be inappropriate. That organization is concerned that including this test in Standard No. 208 might lead to an increase in unintended high-energy air bag deployments, posing risks to out-of-position occupants, because of uncertainties in the sensing and algorithm capabilities in making proper deployment decisions. This potential problem is related to the nature of this crash test. During the initial phase of the test, i.e., during the crushing of the deformable barrier face, vehicles experience a long duration, low magnitude acceleration. The crash pulse in this phase of the test resembles that of a low speed crash. After the vehicle crushes the barrier face and reaches the underlying rigid portion, the remaining phase of the test is similar to a rigid barrier test. IIHS is concerned that because the initial phase of the test results in a crash pulse similar to that experienced in a low speed crash, air bag systems might not be able to distinguish between the offset test and a low speed crash during the time the decision whether to deploy the air bag must be made. If this were the case, an air bag system that was designed to meet an unbelted 56 km/h (35 mph) offset deformable barrier crash test by means of a high-energy air bag deployment might inappropriately provide the same kind of deployment in a low speed crash, thereby posing unnecessary risks to out-of-position occupants.

The Automotive Occupant Restraints Council (AORC), representing manufacturers of air bags and seat belts, stated that while it believes the current sled test option serves a useful purpose, a sled test cannot provide a complete assessment of the crash protection provided by a vehicle/restraint system. That organization stated it believes that to fully assess crash protection for belted and unbelted occupants, barrier crash tests of complete vehicles should be included in the test requirements of Standard No. 208. AORC noted that complete vehicle barrier tests permit the evaluation of the vehicle's structure and its contribution to occupant protection. AORC recommended that additional analysis be conducted concerning what barrier and test conditions should be included in Standard No. 208.

A number of commenters, including several public interest groups, argued that the up-to-48 km/h (30 mph) unbelted rigid barrier test is representative of a significant portion of real world crashes, and that improvements in vehicle and air bag designs will enable manufacturers to meet the test without safety tradeoffs.

As to the proposed belted tests, some vehicle manufacturers argued in their comments on the NPRM that a belted rigid barrier test using 5th percentile adult female dummies would be redundant. They argued that the combination of other tests using 5th percentile adult female dummies plus the existing rigid barrier test using belted 50th percentile adult male dummies would address the same area of safety.

Commenters' views on the proposed up-to-40 km/h (25 mph) belted offset deformable barrier test were mixed, but mostly supportive. Many commenters, including several safety advocacy groups and a number of vehicle manufacturers, supported the addition of an offset deformable barrier test.

As noted earlier, some vehicle manufacturers requested that the test be conducted only with the driver's side engaged, instead of with either side engaged as proposed in the NPRM. The Association of International Automobile Manufacturers (AIAM) stated that a test with the driver's side engaged would more likely produce worst case driver out-of-position locations and possible driver-side intrusion, and that a passenger side offset test would be redundant. Another suggestion made by some vehicle manufacturers was to conduct the test only at 40 km/h (25 mph), rather than at speeds up to 40 km/h (25 mph).

General Motors (GM) stated that it agreed with the addition of the offset deformable barrier test only if the unbelted sled test option remained in effect. GM stated that the offset deformable barrier test augments the sled test by addressing the crash sensing aspects of performance.

DaimlerChrysler argued that the addition of a 40 km/h (25 mph) belted offset deformable barrier test for the 5th percentile adult female is unnecessary in light of future ''depowered'' and/or advanced air bags. That commenter stated that injury risks to small occupants sitting near the driver air bag are adequately assessed using the proposed out-of-position, low-risk deployment tests, which it endorses.

c. SNPRM.

We believe that the comments on the proposed test requirements to improve occupant protection for different size occupants, belted and unbelted, raise two primary questions:

(1) What type and severity level of an unbelted crash test should be included in Standard No. 208?

(2) Are some of the tests proposed in the NPRM redundant, given the other proposed tests?

In the sections which follow, we will address what unbelted test requirements are needed to address the protection of unbelted teenagers and adults, and what overall set of requirements is needed to improve protection for different size occupants, belted and unbelted.

(i) Requirements for Tests With Unbelted Dummies

As we address the issue of what unbelted requirements should be included in Standard No. 208 to address the protection of unbelted teenagers and adults, we believe the ultimate question for regulators, industry and the public is how the required safety features work in the real world. We will consider that question as we separately address two issues: (1) sled testing versus crash testing, and (2) alternative unbelted crash tests (e.g., rigid barrier crash tests, offset deformable tests, etc.) at various severity levels.

Crash testing vs. sled testing. In a full-scale crash test, instrumented test dummies are placed in a production

vehicle, and the vehicle is actually crashed. Measurements from the test dummies are used to determine the forces, and injury potential, human beings would have experienced in the crash.

Many different types of crash tests can be conducted, and the various types of crash tests can be conducted at different levels of severity. Commonly conducted crash tests include: (1) rigid barrier tests, in which a vehicle is crashed head-on (perpendicular) or at an angle into a rigid barrier, (2) offset deformable barrier tests, in which a vehicle is crashed into a barrier with a deformable face, with only a portion of the front of the vehicle (e.g., 40 percent) engaging the barrier, and (3) moving deformable barrier tests, in which a moving deformable barrier designed to be representative of particular vehicles is crashed into the test vehicle. Vehicle-to-vehicle crash tests, in which one vehicle is crashed into another vehicle, are sometimes used in research or product development.

In a sled test, no crash takes place. The vehicle is essentially undamaged. The vehicle is placed on a sled-on-rails, and instrumented test dummies are placed in the vehicle. The sled is accelerated very rapidly backwards (relative to the direction that the occupants would be facing), so that the occupant compartment experiences the same motion as might be experienced in a crash. The air bags are manually deployed at a pre-selected time during the sled test. Measurements from the test dummies are used to determine the forces, and injury potential, human beings would have experienced during the test.

In the NPRM, we explained that the agency has long specified full scale vehicle crash tests using instrumented dummies, in a variety of our standards, because it is only through such tests that the protection provided by the vehicle occupant protection *system* can be fully measured.

In the NPRM, we cited several significant limitations of the current sled test, some of which are inherent to any sled test. We explained:

> Unlike a full scale vehicle crash test, a sled test does not, and cannot, measure the actual protection an occupant will receive in a crash. The current sled test measures limited performance attributes of the air bag, but cannot measure the performance provided by the vehicle structure in combination with the air bags or even the full air bag system by itself.
>
> Among other shortcomings, the sled test does not evaluate the actual timing of air bag deployment. Deployment timing is a critical component of the safety afforded by an air bag. If the air bag deploys too late, the occupant may already have struck the interior of the vehicle before deployment begins.
>
> Air bag timing is affected by parts of the air bag system which are not tested during a sled test, i.e., the crash sensors and computer crash algorithm. A barrier crash test evaluates the ability of sensors to detect a crash and the ability of an algorithm to predict, on the basis of initial sensing of the rate of increase in force levels, whether crash forces will reach levels high enough to warrant deployment. However, the sled test does not evaluate these critical factors. The ability of an algorithm to correctly, and quickly, predict serious crashes is critical. The signal for an air bag to deploy must come very early in a crash, when the crash forces are just beginning to be sensed by the air bag system. A delay in an air bag's deployment could mean that the air bag deploys too late to provide any protection. In a sled test, the air bag is artificially deployed at a predetermined time. The time of deployment in a sled test is artificial and may differ significantly from the time when the air bag would deploy during an actual crash involving the same vehicle.
>
> Second, the current generic sled pulse does not replicate the actual crash pulse of a particular vehicle model, i.e., the specific manner in which the front of the vehicle deforms during a crash, thereby absorbing energy. The actual crash pulse of a vehicle is a critical factor in occupant protection. A crash pulse affects the timing of air bag deployment and the ability of an air bag to cushion and protect an occupant. However, the current sled test does not use the crash pulse of the vehicle being tested. In many cases, the crash pulse used in the sled test is not even one approximately representative of the test vehicle. The sled test uses the crash pulse of a large passenger car for all vehicles, regardless of their type or size. This crash pulse is appropriate for large passenger cars, but not for light trucks and smaller cars since they typically have much ''stiffer'' crash pulses than that of the sled test. In the real world, deceleration of light trucks and smaller cars, and their occupants, occurs more quickly than is simulated by the sled test. Thus, the sled test results may overstate the level of occupant protection that would be provided by a vehicle and its air bag system in the real world. An air bag that can open in a timely fashion and provide adequate cushioning in a soft pulse crash may not be able to do so in a stiffer pulse crash. This is because an occupant of a crashing vehicle moves forward, relative to the vehicle, more quickly in a stiffer pulse crash than in a softer pulse crash.
>
> Third, a sled test does not measure the potential for harm from vehicle components that are pushed back into the occupant compartment during a crash. Examples of components that may intrude into the occupant compartment include the steering wheel, an A-pillar and the toe-board. Since a sled test does not involve any kind of crash or deformation of the vehicle, it implicitly assumes that such intrusion does not occur in crashes. Thus, the sled test may indicate that a vehicle provides good protection when, as a result of steering wheel or other intrusion, the vehicle will actually provide poor protection in a real world crash.
>
> Fourth, the sled test does not measure how a vehicle performs in angled crashes. It only tests vehicles in a perpendicular crash. In the real world, frontal crashes occur at varying angles, resulting in occupants moving toward the steering wheel and instrument panel in a variety of trajectories. The specification of angled tests in conjunction with the barrier test requirement ensures that a vehicle is tested under these real world conditions. 63 FR 49971.

Commenters supporting retention of the sled test did not dispute the inherent limitations of sled tests as compared to crash tests.

AAMA argued that the single best argument for retaining the existing sled test is that ''it's working;'' AAMA contended that ''depowered'' air bags in vehicles certified according to the sled test are saving the lives of occupants of all sizes, while reducing the harm to children and other out-of-position occupants.

It is not clear, however, that the sled test is responsible for any of the benefits of redesigned air bags other than to the extent it made it easier for vehicle manufacturers to redesign and certify their existing air bags more quickly.

As noted earlier, limited available data appear to indicate that redesigned air bags have reduced the risks from air bags for the at-risk populations. However, it is not possible at this time to draw statistically significant conclusions about this. There is a greater amount of data on the overall benefits of air bags. These data indicate that there is essentially the same or slightly better protection provided by the redesigned air bags compared to earlier air bags.

Regardless of how well vehicles with redesigned air bags are currently performing, however, the sled test itself cannot guarantee that future air bags would perform nearly so well. These vehicles and their air bags were initially designed to the unbelted barrier test, and their current air bags represent quick, partial redesigns of those air bags. Thus, their performance is still highly reflective of the unbelted test.

While the sled test has made it easier for manufacturers to redesign and certify their vehicles more quickly, manufacturers could and did depower air bags under Standard No. 208's unbelted barrier test. As discussed below, available data suggest that most vehicles, while certified to the sled test, continue to meet the unbelted barrier test requirements (including the new neck injury criteria) with the 50th percentile adult male dummies.

Our goal in this rulemaking is to determine what requirements to protect

unbelted and other occupants should apply to vehicles in the future. AAMA's argument that the sled test is working does not take into account all of the kinds of less protective vehicles and air bags that would be permitted by the sled test, given its mildness, and which might be produced if the sled test were allowed to remain in effect on a long-term basis.

The sled test is unable to offer any assurance that current vehicles and air bags are representative of what manufacturers would offer in the long run if the sled test were available as a permanent option. Nothing in the standard would inhibit manufacturers from making their air bags significantly smaller in both depth and width, and thus less protective in high speed crashes. In particular, narrower air bags could provide less protection in crashes involving oblique angles. The sled test also might permit ''face bags'' which do not provide chest protection or restraint for portions of the lower torso. In addition, the absence of an unbelted full-vehicle test at an appropriate severity level would permit vehicles to be designed with stiffer, less energy-absorbing front ends, e.g., to provide more interior passenger or cargo-carrying space at the expense of frontal ''crush'' space.

Moreover, unless balanced by an effective unbelted crash test requirement, the proposed new requirements to minimize air bag risks to out-of-position occupants have the potential to create an incentive for manufacturers to make their current air bags smaller and less protective. An inexpensive and relatively easy way to reduce risks from the air bag to out-of-position occupants is to further depower air bags and make them smaller. However, if air bags are depowered too much or made too small, they will not provide meaningful protection in high speed crashes.

Our basic obligation is to issue Federal motor vehicle safety standards that establish a minimum level of performance that protects the public against unreasonable risk of crashes occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in a crash. In this particular rulemaking, we are facing an array of safety problems, and TEA 21 as well as our pre-existing statutory authority, require that we address each of them.

The most reliable way to determine how vehicles will perform in real world crashes is to crash them. That is why we believe that a crash test is needed. Sled tests are useful research tools, but they do not provide as full or accurate a measure of the occupant protection that a vehicle will provide in the real world.

Given the importance of unbelted protection, we believe it is necessary to provide the public with assurance that the minimum level of performance for each vehicle will be required to be meaningful, based on careful scientific and engineering analysis. While we have carefully considered all of the comments concerning the sled test, we continue to believe that sled testing is an inadequate long-term means for ensuring that current levels of unbelted occupant protection are improved. This is based on the above-noted inherent limitations of sled tests, as compared to crash tests, in evaluating occupant protection. Whether one looks at IIHS with its offset crash test program, Europe with its offset NCAP program, or our experience with our NCAP, Standard No. 208 and Standard No. 214, it is widely acknowledged that crash tests, set at appropriate severity levels, provide the best means of evaluating the protection that occupants will receive in real world crashes.

For this SNPRM, we urge commenters to focus on what specific unbelted complete vehicle crash tests are the most appropriate.

Alternative unbelted crash tests. As we noted above, many different types of crash tests can be conducted, and the various types of crash tests can be conducted at different levels of severity and orientation. Commonly conducted crash tests include: (1) fixed rigid barrier tests, (2) fixed offset deformable barrier tests and (3) moving deformable barrier tests.

If government or anyone else wants to determine whether a vehicle provides an appropriate degree of occupant protection in a potentially fatal or serious injury producing crash, the crash test must have the severity representative of those crashes. The fact that a test might indicate that an occupant would not be injured or killed in a relatively mild crash says nothing about whether the occupant would likely be killed in a more serious crash. That is why it is important to distinguish between the universe of all typical real world crashes and those typical real world crashes serious enough to pose a significant risk of serious or fatal injury. While one could argue that the most ''typical'' crash is probably a fender bender resulting in little or no personal injury, basing Standard No. 208 on such a test would not result in any savings in lives or reductions in serious injuries. Of course, there are many issues to consider in selecting a specific crash test, but we must focus on seeking to represent the kind of typical crashes that are potentially fatal, rather than typical crashes as a whole.

When we issued the NPRM, we released a paper titled ''Review of Potential Test Procedures for FMVSS No. 208.'' The paper provided a detailed technical analysis of the various alternative crash tests. To accompany this SNPRM, we are releasing an updated version of that paper, which has been revised in light of comments and other new information. The paper shows that, among the currently available alternative crash tests, the rigid barrier test (perpendicular and up to ±30 degrees oblique to perpendicular) represents the greatest number of real world crashes involving serious to fatal injuries. The only alternative crash test that would represent a greater number of such crashes would be one involving a moving deformable barrier, which is still undergoing research.

In the NPRM, we noted that while the perpendicular rigid barrier test results in crash pulses of short duration, e.g., the kind of pulse that a vehicle experiences when it fully engages another similar-sized or larger vehicle directly head-on or strikes a bridge abutment, the oblique rigid barrier tests result in crash pulses of longer duration, i.e., a ''softer'' crash pulse, which may occur when vehicles strike each other at various angles.

We also noted that vehicles and air bags designed to comply with the unbelted rigid barrier test have been effective in saving lives. At the time of the NPRM, we estimated that air bags had saved the lives of about 3,148 drivers and passengers. Of these, 2,267 were unbelted. The rest, 881, were belted. If these levels of effectiveness are maintained (i.e., 21 percent in frontal crashes for restrained occupants and 34 percent in frontal crashes for unrestrained occupants), air bags will save more than 3,000 lives each year in passenger cars and light trucks when all light vehicles on the road are equipped with dual air bags.

Commenters opposing the 48 km/h (30 mph) unbelted barrier test raised two primary issues. First, they argued that the test is not representative of typical crashes. Second, they argued that returning to this test would prevent continued use of ''depowered'' air bags and would require a return to ''overly aggressive'' air bags.

We note that, in arguing that the 48 km/h (30 mph) unbelted barrier test is not representative of typical crashes, the commenters did not define what they meant by ''typical crashes.'' Given that

the purpose of Standard No. 208 is primarily to reduce serious-to-fatal injuries, we believe that question is whether that test is representative of the crashes that produce those injuries. More than 18,000 drivers and right front passengers are killed each year in frontal impacts, and more than 290,000 drivers and right front passengers experience moderate to critical non-fatal injuries. These numbers would be significantly higher without effective air bags.

In order to promulgate safety standards that protect the public against unreasonable risk of death or injury in a crash, and to fulfill our specific duty under TEA 21 to improve occupant protection for occupants of different sizes, belted and unbelted, it is necessary for Standard No. 208 to address these crashes. In addition, by requiring vehicles to provide protection over a range of crash severities, e.g., in tests at speeds ''up to'' a given velocity, we also address protection for lower severity crashes. The upper level severity must, however, be sufficient to ensure that manufacturers provide life-saving occupant protection in higher speed crashes.

The following figures, derived from National Automotive Sampling System (NASS) data for years 1993–1997, show the cumulative distribution of injuries and fatalities in frontal crashes by delta V,[16] for all occupants, belted occupants, and unbelted occupants:

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[16] As used here, ''delta V'' refers to the crash-induced change in velocity of a vehicle in a crash. When looking at the severity of a crash and its influence on air bag design, delta V is not the only important factor. Another important factor is the time to reach that delta V. The time is important because it affects the speed at which the occupant strikes the interior of the vehicle, i.e., for a given delta V crash, the shorter the time duration, the higher the occupant impact speed.

Figure 3: Cumulative Distribution of Injuries: All Occupants by Delta V & Injury Severity (Frontals) – CDS 93-97

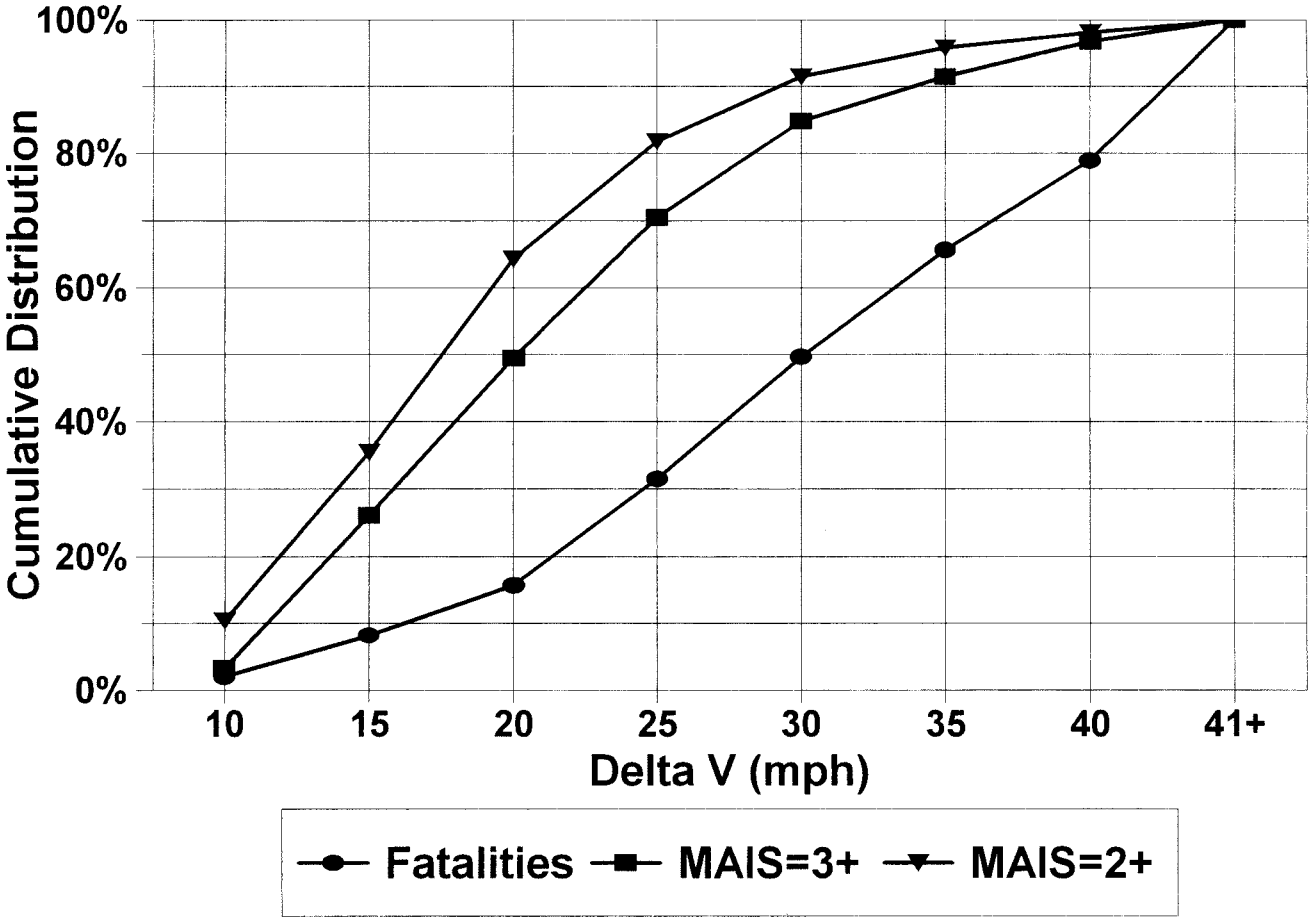


Figure 4: Cumulative Distribution of Injuries: Belted Occupants by Delta V & Injury Severity (Frontals) – CDS 93-97

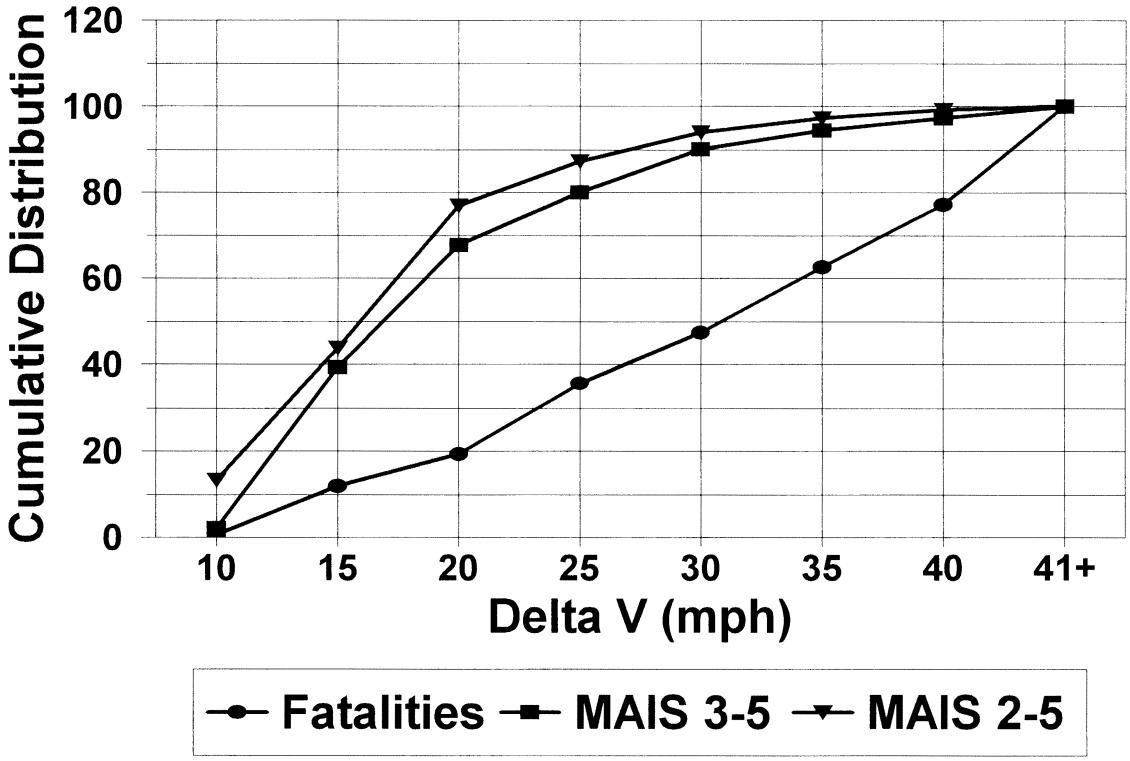
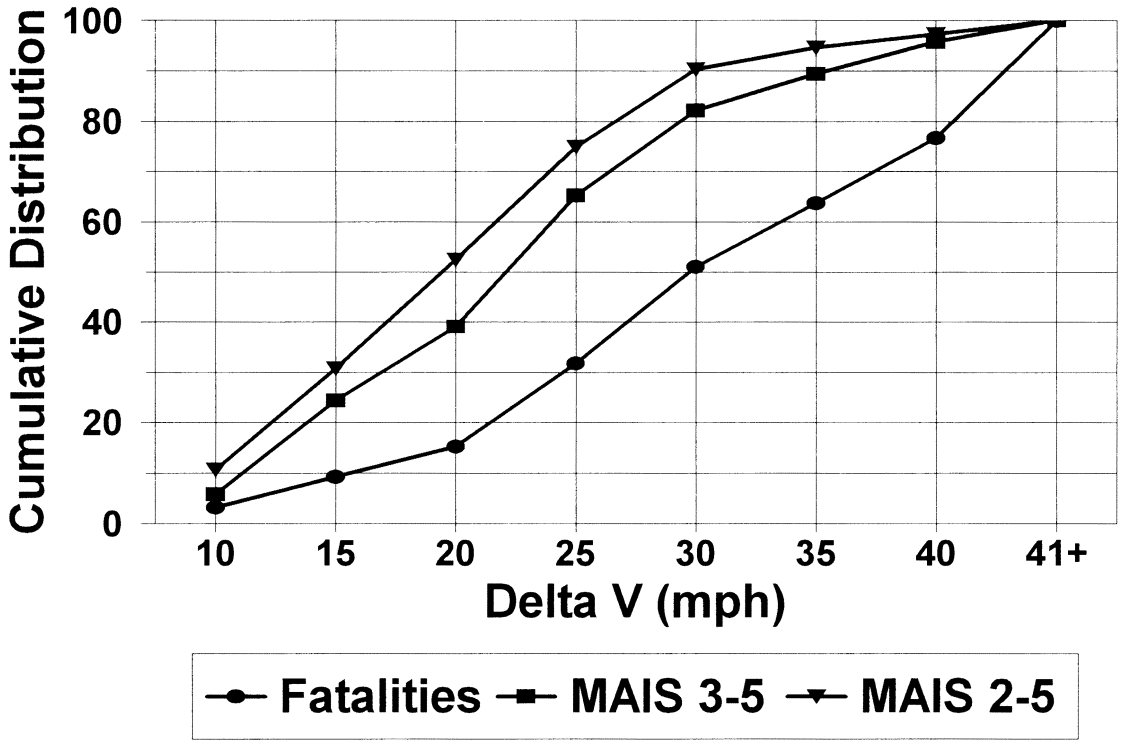


Figure 5: Cumulative Distribution of Injuries: Unbelted Occupants by Delta V & Injury Severity (Frontals) – CDS 93-97



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The figures show the cumulative distribution of injuries by delta V for fatalities, for MAIS 3+ injuries, and for MAIS 2+ injuries. MAIS 3+ injuries are those which are classified as serious or greater injury, while MAIS 2+ are those which are classified as moderate or greater.[17]

We can see several things by examining the figures. About 50 percent of fatalities in frontal crashes occur at delta V's below 48 km/h (30 mph), and about 50 percent occur at delta V's above 48 km/h (30 mph). Looking separately at unbelted and belted occupants, 51 percent of the fatalities involving unbelted occupants and 47 percent of the fatalities involving belted occupants occur in frontal crashes at delta V's below 48 km/h (30 mph). We note that the delta V in NASS represents the speed at which the vehicle would strike a rigid barrier to duplicate the amount of energy absorbed in the crash. Thus, about half of fatalities in frontal crashes occur in crashes that are more severe than a 48 km/h (30 mph) rigid barrier crash, and half of all frontal crash fatalities occur in crashes that are less severe than a 48 km/h (30 mph) rigid barrier crash. Given that Standard No. 208's unbelted crash test requirements are intended to save lives, we disagree that 48 km/h (30 mph) rigid barrier crashes are unrepresentative of the kinds of crashes in which we are seeking to ensure protection.

As to the argument that returning to the unbelted 48 km/h (30 mph) rigid barrier test would prevent continued use of ''depowered'' air bags and require use of ''overly aggressive'' air bags, the agency will have to consider the information available to it in making a final decision.[18]

In the NPRM, we noted that, based on very limited data, it appeared that many, perhaps most, vehicles with redesigned air bags continue to meet the historical 48 km/h (30 mph) rigid barrier requirements of Standard No. 208 (using 50th percentile adult male dummies and applying the current injury criteria performance limits) by fairly wide margins. At that time, we had tested five vehicles with redesigned driver air bags in unbelted 48 km/h (30 mph) rigid

[17] The AIS or Abbreviated Injury Scale, first developed by the Association for the Advancement of Automotive Medicine in 1971, is a consensus-derived, anatomically based system that ranks individual injuries by body region on a scale of 1 to 6 as follows: 1=minor, 2=moderate, 3=serious, 4=severe, 5=critical, and 6=maximum/currently untreatable. The AIS is intended as a measure of the severity of the injury itself and not as a measure of impairments or disabilities that may result from the injury. It does not assess the combined effects of multiple injuries to a patient. The AIS was revised and updated several times, with the most recent revision in 1990. MAIS represents the maximum injury severity (expressed in terms of AIS) of any injury received by a person, regardless of the nature or location of the injury.

[18] It is difficult to respond to the industry argument that the 48 km/h (30 mph) barrier test would prevent continued use of ''depowered'' air bags because ''depowered'' is an amorphous, relative concept, not an absolute one. The term simply means ''less power than before.'' Saying that an air bag is depowered is not a statement that the air bag has more or less than some specific pressure rise rate or overall peak pressure of the air bag inflator. Thus, there is no way of examining or testing an air bag to determine whether it is ''depowered.''

Further, not all pre-depowered air bags had the same level of power. Indeed, there was a wide variation in the level of power of pre-depowered air bags. Likewise, there is variation in the level of power of depowered air bags. In addition, Parents for Safer Air Bags (Parents) noted that many of today's vehicles incorporate a whole array of air bag design improvements, making it difficult to attribute the apparent decrease in air bag fatalities and injuries to any particular feature or combination of features.

Accordingly, in this document, we generally use the term ''redesigned'' in referring to air bags that have been changed in various ways since MY 1997, including, in many cases, a reduction in the pressure rise rate and/or overall peak pressure of the air bag inflator. These air bags have not been depowered as much as the sled test permits. Further, most of the redesigned air bags tested by the agency meet the unbelted 48 km/h (30 mph) barrier test.

barrier tests, and all passed Standard No. 208's previous injury criteria by significant margins. We had tested six vehicles with redesigned passenger air bags in unbelted 48 km/h (30 mph) rigid barrier tests, and all but one passed the standard's injury criteria performance limits by significant margins.

Some vehicle manufacturers objected to our analysis in this area. They argued that, given the variability associated with testing different vehicles of the same design, the fact that a particular vehicle had passed a single test would not necessarily allow them to certify that model vehicle as complying with Standard No. 208 because there would not be a sufficient margin of compliance to ensure that all vehicles of that model would pass the test. Some manufacturers indicated that they need a 20 percent margin of compliance in order to so certify. Vehicle manufacturers also stated that they need to ensure that all variations and configurations of a model would pass the test and that, in some cases, we tested a configuration which would result in lower injury criteria readings than other variations and configurations.

We continue to believe that a key way of assessing the validity of the argument that a return to the 48 km/h (30 mph) barrier test would—at least in the absence of additional technological improvements—prevent continued use of redesigned air bags is to test vehicles with those air bags in 48 km/h (30 mph) barrier tests and see how they perform. Therefore, since issuing our NPRM, we have conducted more barrier tests of vehicles with redesigned air bags.

We have now tested a total of 13 MY 1998–99 vehicles with redesigned air bags in a perpendicular rigid barrier crash test at 48 km/h (30 mph) with unbelted 50th percentile adult male driver and passenger dummies. The vehicles represented a wide range of vehicle types and sizes. In particular, the 13 vehicles included one sub-compact car, one compact car, four mid-size cars (representing high sales volume vehicles), one full-size car, two mid-size sport utility vehicles, one full-size sport utility vehicle, one pickup truck, one minivan, and one full-size van.[19]

For the driver position, 12 of the 13 vehicles passed all the relevant injury criteria performance limits we are proposing in this SNPRM. In the one vehicle with a failure, the MY 1999 Acura RL, the driver dummy exceeded the femur load criteria. For the passenger position, 12 of the 13 vehicles also passed all of the relevant injury criteria performance limits. The MY 1998 Dodge Neon slightly exceeded the 60 g chest acceleration limit (with a value of 61.4 g). The other proposed injury criteria performance limits, (i.e., for HIC, chest deflection, and Nij) were easily met in all the tests; for most there was a greater than 20 percent margin of compliance for both the driver and passenger.

Thus, the tested vehicles with redesigned air bags, ranging widely in vehicle type and size, appear to continue to meet Standard No. 208's 48 km/h (30 mph) unbelted rigid barrier test requirements for 50th percentile adult male dummies, many of them by wide margins.

As to any vehicles that do not meet that test, at this point we simply note that TEA 21 affords lead time before all vehicles must meet whatever tests are incorporated in the final rule to be issued in this rulemaking.

As to the issue of margin of compliance, we agree that manufacturers need to ensure that all of their vehicles meet a test requirement established by a Federal safety standard. However, we do not agree that this means a 20 percent margin of compliance is necessary. The chest g value is the injury criterion that is most likely to be the limiting factor in certifying to the 48 km/h (30 mph) unbelted rigid barrier test requirements for the 50th percentile adult male dummy. Examination of compliance and certification data for pre-redesigned air bags shows that manufacturers often certified vehicles to the requirement with much less than a 20 percent margin of compliance. In fact, margins of compliance for our 48 km/h (30 mph) tests of vehicles with redesigned air bags were not that different from those with pre-redesigned air bags.

We are not suggesting that every current production vehicle would comply with the unbelted 48 km/h (30 mph) rigid barrier test. Instead, we are pointing out that a wide ranging sample of vehicle types and sizes meet the 48 km/h (30 mph) rigid barrier test, for 50th percentile adult male dummies, with redesigned air bags.

However, the ultimate issue of this rulemaking is not whether some MY 1998–99 vehicles with redesigned, single-inflation level air bags currently would not meet the 48 km/h (30 mph) unbelted barrier test requirement. As noted above, many of the air bags in current vehicles were not comprehensively redesigned, but are merely older designs of air bags with less power. TEA 21 mandates the issuance of a final rule based on means that include advanced air bag technologies. We believe the selection of future compliance tests under TEA 21 must be made in the context of those technologies, and not in the context of today's less sophisticated one-size-fits-all air bag designs. Today's air bag systems are not advanced air bags and thus do not respond to factors such as crash severity, occupant weight and occupant location. By contrast, the incorporation of advanced technologies would make air bag systems responsive to those factors. If a manufacturer decided to use a somewhat more powerful air bag to meet a 48 km/h (30 mph) unbelted rigid barrier test, or to provide protection in more severe crashes, the manufacturer could use advanced air bag technologies to provide less powerful levels of inflation in lower severity crashes, for smaller occupants, for belted occupants, and for occupants sitting with the seat in the full-forward position. Manufacturers could also reduce aggressivity of air bags by various means such as optimizing fold patterns, different cover designs, lighter fabrics, etc. Advanced technologies would also enable the manufacturer to suppress air bag deployment in appropriate circumstances, such as when children are present.

As we assess the type and severity level of an unbelted crash test should be included in Standard No. 208, we recognize that we must bear in mind that the issue of the suitability of a unbelted 48 km/h (30 mph) rigid barrier test cannot be determined solely based on whether manufacturers can meet that test with redesigned air bags using 50th percentile male dummies. In the NPRM, we proposed not only to return to that test requirement, but also to require vehicles to be certified to several new crash test requirements and new injury criteria performance limits, including tests using 5th percentile adult female dummies in the full forward seat track position, and to requirements to minimize air bag risks. Vehicle manufacturers commented that some of the design options that are available in redesigning their air bags involve potential trade-offs in meeting the different proposed requirements. For example, the optimum size air bag for meeting test requirements for 50th percentile adult dummies may make it more difficult to meet requirements for 5th percentile adult female dummies,

[19] The specific vehicles and their classes included a Saturn (sub-compact car), a Neon (compact car), an Intrepid, Camry, Taurus, and Accord (mid-size cars), an Acura RL (full-size car), an Explorer and Cherokee (mid-size SUV's), an Expedition (large SUV), a Tacoma (pickup truck), a Voyager (minivan), and an Econoline (full-size van).

and vice versa. This issue, and the agency's testing of current vehicles to a variety of the proposed test requirements, are discussed later in this notice.

Proposed alternative unbelted crash tests. In the NPRM, we indicated that while we believe the 48 km/h (30 mph) unbelted rigid barrier test is a good approach, we were also willing to consider alternative unbelted crash tests. The only alternative unbelted crash test advocated by a commenter that could realistically be implemented within the time frame of this rulemaking is the unbelted 56 km/h (35 mph) offset deformable barrier test suggested by IIHS. As noted earlier, IIHS stated that this configuration would address not only protection in asymmetric crashes but also some issues of intrusion that are related to restraint system performance, e.g., steering column movement.

Given the continued debate over what requirements should apply to ensure protection to unbelted occupants, we want to be sure that we have considered and received the benefit of public comments on the various alternative approaches that are available at this time. One approach, of course, is the one we proposed in the NPRM, the unbelted rigid barrier test. We note that some have suggested that, instead of conducting this test at speeds up to 48 km/h (30 mph), we reduce the maximum speed. Ford, for example, suggested in 1995 that we adopt an upper speed of 40 km/h (25 mph). It coupled this suggestion with the further suggestion that the speed of the belted test be increased to 56 km/h (35 mph).[20] In its recent consensus statement, the Alliance has suggested a single speed test (perpendicular impact only) of 40 km/h (25 mph).

A second possible approach is an unbelted fixed offset deformable barrier test, along the lines suggested by IIHS in its comment on the September 1998 NPRM. While, as discussed above, that organization has recently identified some concerns about that test, we believe an unbelted offset deformable barrier test represents a sufficiently interesting alternative approach to warrant seeking public comment. As to the concern that IIHS recently identified about air bag systems possibly having difficulty distinguishing between the offset test and a low speed crash during the time the decision whether to deploy the air bag must be made, we note that it may be possible to address this potential problem by using advanced sensing systems. That is one of the issues for which we would like to receive public comments. By requesting public comments, we will obtain additional data and views to better enable us to make a thorough evaluation of the merits of including such a test in Standard No. 208.

For this SNPRM, we are proposing and seeking comments on two alternative unbelted tests. The first alternative is the unbelted rigid barrier test (perpendicular and up to ±30 degrees oblique to perpendicular with 50th percentile adult male dummies, but perpendicular only in tests with 5th percentile adult female dummies) with a maximum speed to be established within the range of 40 to 48 km/h (25 to 30 mph). As part of this alternative, we are considering the possibility of coupling a lower speed for the unbelted barrier test with a higher speed for the belted barrier test. The second alternative is an unbelted offset deformable barrier test with a maximum speed to be established within the range of 48 to 56 km/h (30 to 35 mph). A vehicle would have to meet the requirements both in tests with the driver side of the vehicle engaged with the barrier and in tests with the passenger side engaged.

We note that, in considering a range of upper severity levels, the upper severity level could be adjusted by either changing the test speed or applying different injury criteria limits at higher speeds. For example, in our rulemaking to facilitate quick redesign of air bags, in lieu of the sled test, we identified the possibility of maintaining the 48 km/h (30 mph) unbelted rigid barrier test, but relaxing the limit on chest g's. We also note the possibility of specifying relaxed injury criteria performance limits or lower maximum test speeds that would apply during the TEA 21 phase-in period and more stringent ones that would apply thereafter.

For all of the unbelted crash tests proposed in this document, protection would be required in crashes ranging from a specified minimum speed to a specified highest speed, rather than at all speeds ''up to'' that specified highest speed.

Under the unbelted rigid barrier test alternative, the agency would not test at a speed of less than 29 km/h (18 mph), and under the unbelted offset deformable barrier test alternative, the agency would not test at a speed of less than 35 km/h (22 mph). (We are proposing a higher minimum test speed for the latter alternative because, for a given speed, it is a less severe test.) This is a departure from the proposal in the NPRM and from prior agency practice. One reason for this change is that we want to be sure that the standard does not push deployment thresholds downward, i.e., cause air bags to be deployed at lower speeds than are appropriate for maximum occupant protection. Commenters indicated that, in order to meet neck injury criteria, air bag deployments might be required at very low speeds, even in crashes with a delta-V lower than 10 mph, particularly with the 5th percentile adult female dummy in the full forward position. While the issue of the most appropriate threshold for air bag deployment is complex, we believe there is a consensus that ''no fire'' thresholds should not be any lower than they are at present. Moreover, neck injuries are not a significant problem in lower speed crashes.

The proposed high speed unbelted offset deformable barrier test would involve the same crash configuration as we proposed in the NPRM for the up-to-40 km/h (25 mph) belted offset deformable barrier test. Vehicles would have to meet the requirements in tests with both the vehicle and the passenger side of the vehicle engaged. The test would, of course, be conducted at higher speeds, and unbelted 50th percentile adult male dummies and 5th percentile adult female dummies would be used.

[20] The agency examined Ford's recommendation in a status report titled ''On the Issue of Testing Air-Bag Equipped Vehicles with and without Belt Restraints at Different Speeds,'' November 2, 1995. Originally docketed in the docket (No. 74–14; Notice 97–001) for a request for comments published by the agency November 9, 1995 (60 FR 56554); more recently docketed in NHTSA–96–1772–002. In the 1995 request for comments, the agency said:

While NHTSA anticipates that these smart bag systems will substantially minimize adverse side effects of air bags in the not too distant future, this still leaves the question of what can be done in addition to public education for the near future. Manufacturers may be able to make adjustments to existing air bag systems. Further, NHTSA may be able to make temporary adjustments to its regulations if it is shown to be necessary to enable manufacturers to minimize any adverse side effects during this period.

For example, Ford has requested that NHTSA amend its crash testing procedures in Standard No. 208. The standard currently requires test dummies to be protected in a 30 mile per hour (mph) crash both when wearing safety belts and when not wearing the belts (i.e., protected by the air bag alone). Ford asked that the test speed for the unbelted dummies be lowered to 25 mph, while the test speed for the belted dummies be raised to 35 mph. According to Ford, this change would allow manufacturers to better ''tune'' the interaction between the air bag and the safety belt so as to optimize the protection afforded to occupants who use their belts. Ford stated that the current testing procedure forces manufacturers to base occupant protection designs solely on the air bag, rather than the interaction between the air bag and the belt. Ford believes that such a change can reduce air bag-induced injuries.

The offset deformable barrier test is used in several ways in different parts of the world. The test has been adopted as a requirement in Europe at a speed of 56 km/h (35 mph), using belted 50th percentile adult male dummies, pursuant to EU Directive 96/79 EC. The test is also conducted in Europe at a higher speed, 64 km/h (40 mph), as part of the European New Car Assessment Program. The Australian New Car Assessment Program conducts the same test at the same speed. IIHS also conducts this test at the same speed, using belted 50th percentile adult male dummies to evaluate the crashworthiness of vehicles. Transport Canada is developing a test procedure using belted 5th percentile adult female dummies at impact speeds up to 40 km/h (25 mph) to evaluate air bag sensor performance and air bag aggressivity.

While a great deal has been written on the subject of unbelted rigid barrier tests over the years, the high speed *unbelted* offset deformable barrier test is relatively new. We note that we have been conducting research for several years with the intention of proposing to add a high speed *belted* frontal offset test to Standard No. 208. For information about this research program, see our Report to Congress, Status Report on Establishing a Federal Motor Vehicle Safety Standard for Frontal Offset Crash Testing, April 1997. This report is available on our web site at *http://www.nhtsa.dot.gov/cars/rules/CrashWorthy/offrt.html.*

In our Report to Congress, and in the NPRM (63 FR 49958, at 49960), we stated that we were considering adding the European high speed belted frontal offset test to Standard No. 208 as a supplement to the existing tests. We stated in the Report that the Standard No. 208 rigid barrier test is most effective in preventing head and chest injuries and fatalities, but noted that it does not address lower limb and neck injuries.

We stated further in the Report that while the frontal rigid barrier test of Standard No. 208 does not produce the vehicle intrusion observed in many real world crashes, it does depict those impacts which produce the highest risk of serious to fatal injuries resulting from frontal crashes. We stated that the European frontal test procedure does not address the highest risk of serious to fatal injuries occurring in frontal crashes and that, from our viewpoint, the European test conditions were not acceptable as an alternative to Standard No. 208. We stated, however, that adoption of the European test could yield benefits in terms of a reduction in lower limb injuries.

While our analysis of the European test was made in the context of a belted condition, it nonetheless raises the issue of whether the test is adequately representative of potentially fatal crashes. To address this issue, we have sought to compare the 56 km/h (35 mph) offset deformable barrier crash test recommended by IIHS to a 48 km/h (30 mph) rigid barrier test.

Among other things, we have conducted 56 km/h (35 mph) offset deformable barrier crash tests on MY 1999 Dodge Intrepid and Toyota Tacoma vehicles. Comparing the crash pulses for these tests with the pulses of 40 and 48 km/h (25 and 30 mph) rigid barrier tests that we also conducted using these vehicles, we can make several observations. For each vehicle, there is a long duration, low magnitude acceleration during the initial phase of the test that is associated with the crushing of the deformable barrier face. After the crushing of the barrier face, the remaining segment of the crash pulse is similar to that for the 40 and 48 km/h (25 and 30 mph) rigid barrier tests, and this portion of the acceleration profile generally would fall in between the pulses for those two rigid barrier tests if adjusted with a time shift.

A close look at these pulses suggests that, from the perspective of delta-V, the deformable barrier test is approximately equal in severity to a 45 km/h (28 mph) rigid barrier test. This is consistent with a rule of thumb within the research community that the offset test's barrier equivalent velocity is approximately 20 percent less than the impact speed.

This observation is also supported by findings from our Advanced Frontal Research Program. We provided a number of vehicles tested in both collinear and oblique offset tests to NASS investigators for analysis. The investigators estimated delta Vs that were substantially lower than the impact speeds.[21] Also, IIHS conducted a similar study and observed similar results,[22] *i.e.,* the range of delta Vs were 15 to 28 percent lower than the impact speeds.

It is important to note that although we estimate 45 km/h (28 mph) as the rigid barrier equivalent speed for the 56 km/h (35 mph) offset deformable barrier test, this does not mean that air bags designed to meet the 56 km/h (35 mph) offset deformable barrier test would provide a level of protection equivalent to that provided by air bags designed to meet a 45 km/h (28 mph) barrier-like crashes.

When looking at the severity of a crash and its influence on air bag design, delta V is not the only important factor. Another important factor is the time to reach that delta V. The time is important because it affects the speed at which the occupant strikes the interior of the vehicle, *i.e.,* for a given delta V crash, the shorter the time duration, the higher the occupant impact speed.

As discussed in the test procedures paper, the offset crash test has a long duration deceleration pulse. As a result, occupants in a vehicle involved in such a crash would impact the interior components at lower speeds than occupants who were in a vehicle involved in barrier-like crashes. Because of this aspect of offset crashes, the test procedures paper separates the crash events in NASS and estimates a substantially lower target population for the offset test than for the rigid barrier test.

The high speed unbelted rigid barrier test and the high speed unbelted offset deformable barrier test are significantly different, and each has potential advantages as compared to the other.

Among the considerations that are relevant to the high speed unbelted rigid barrier test are the following—

- It involves a stiffer crash, thereby promoting the design of soft frontal structure and deeper air bags that provide more protection against AIS ≥ 3, life-threatening, head/chest injuries in higher speed crashes.
- It promotes the design of wider air bags which provide head and chest protection in the angular component of the test.
- It is a well known test condition. It has been part of Standard No. 208 since 1984.
- It may result in more repeatable test results than an offset test would provide. Since the offset test involves striking a soft structure, there may be a chance of air bag sensor timing variability. Variations in air bag sensor timing can lead to variations in occupant kinematics. The rigid barrier test, on the other hand, results in relatively consistent air bag deployment timings.
- The full frontal rigid barrier test represents a vehicle striking a like vehicle.

Among the considerations that are relevant to the high speed unbelted

[21] Stucki, Sheldon L. and Fessahaie, Osvaldo, ''Comparison of Measured Velocity Change in Frontal Crash Tests to NASS Computed Velocity Change,'' SAE Paper No. 980649, 1991 SAE International Congress and Exposition, Detroit, March 1998.

[22] O'Neill, Brian, Preuss, Charles A., and Nolan, James M., Insurance Institute for Highway Safety, ''Relationships Between Computed Delta V and Impact Speeds for Offset Crashes'', Paper No. 96–S9–O–11, Proceedings of Fifteenth International Technical Conference on the Enhanced Safety of Vehicles, Melbourne, Australia, May 1996.

offset deformable barrier test are the following:

- It provides a more challenging test of the vehicle crash sensors. In order to provide optimal protection to the occupant in a crash, the crash sensors need to make a determination of when to fire the air bag as early as possible. However, the challenge in an offset deformable barrier crash test arises from the fact that the engagement of the offset deformable barrier results in a soft crash pulse which needs to be detected by the sensor for the algorithm to make the decision to deploy, and a harder crash pulse later in the event.
- It provides a more challenging test of the vehicle structure. The offset deformable barrier test engages only 40% of the front structure of the vehicle. Therefore, the crush is concentrated on one side and produces more intrusion into the occupant compartment. The full frontal rigid barrier test engages the entire front of the vehicle in a distributed loading pattern.
- It has greater potential for benefits related to injury from intrusion.
- The deformable barrier is known and used in other test configurations. The European offset crash test requirement and the IIHS crashworthiness evaluations are two examples.
- The deformable barrier can be bottomed out by sports utility vehicles and full size pick-up trucks due to their increased mass and stiffness of the structures involved. To the extent that the deformable barrier is bottomed out, it becomes more like an offset rigid barrier test, thereby potentially providing a more severe crash test for larger, heavier vehicles.
- The offset deformable barrier test is not representative of a vehicle-to-vehicle crash. It is perhaps most easily understood by comparing it to a full frontal rigid barrier test and an offset rigid barrier test. An offset rigid barrier test simulates a crash where the entire crash energy is absorbed by the structural members of the struck side. In an offset deformable barrier test, this energy is shared by the barrier and the vehicle structures. Comparing a full frontal rigid barrier test to an offset rigid barrier test conducted at the same speed, there is greater likelihood of intrusion. The crash pulse for the offset rigid barrier test would likely have about the same peak acceleration but a longer time duration. An offset deformable barrier test at the same speed would likely result in a lower peak acceleration and about the same time duration as the rigid offset barrier test.
- Comparing a 35 mph offset test to a 30 mph full frontal rigid barrier test, the peak g's are likely to less in the offset test, and the time duration of the crash pulse is likely to be substantially longer.

As noted above, the concept of a high speed unbelted offset deformable barrier test is new, so there are very few available data for this test. However, we have tested two vehicles, the MY 1999 Toyota Tacoma and Dodge Intrepid, in unbelted 56 km/h (35 mph) offset tests using both 50th percentile adult male and 5th percentile adult female test dummies. One vehicle, the Tacoma, was able to meet the proposed injury criteria performance limits without difficulty (for both types of dummies and both left and right impacts), while the other vehicle, the Intrepid, had difficulty, particularly with the Nij injury criteria performance limits. Of course, neither of these vehicles was designed with the offset test in mind, so these tests have little relevance to the issue of whether vehicles could satisfy such a requirement.

Some vehicle manufacturers have expressed concerns about an unbelted high speed offset test. GM has expressed concern about the ability of vehicle sensing systems to be able to sense the soft, deformable barrier face of the offset deformable barrier, and still be able to perform well in real world crashes. According to that company, its review of actual vehicle data traces plotting deceleration over time indicates that the frontal offset barrier impact initially looks much like a low speed crash, where no air bag or just a first stage air bag might be used. Because of this, a sensor system might not recognize until well into the crash that the vehicle is undergoing a higher speed, severe crash. GM believes that if this test were made a part of the standard, manufacturers would either have to design their sensors to fire any time they see a lower speed, soft impact, which would cause more low speed deployments, or design the sensors to optimize for real world crashes and risk failing this performance test in the standard.

Honda expressed concern about the similarity in pulses between the 40 km/h (25 mph) offset deformable barrier and the 56 km/h (35 mph) offset deformable barrier crashes. In an August 26, 1999 comment submitted to the docket, Honda stated that, even though these tests are dissimilar in terms of ultimate severity, the crash pulses looked similar during the initial decision period of up to 30 ms. This in part reflects the fact that the initial phase of the test is measuring the deformation of the soft barrier. According to Honda, the vehicle's analytical system will be unable to discern the crash severity and will not be able to accurately predict what stage to fire, or even whether to fire the air bag in a timely fashion. That company indicated that this may result in poor algorithm design.

For additional analysis of the two alternative unbelted tests, readers are referred to the aforementioned paper and supplement prepared by our Office of Vehicle Safety Research concerning potential test procedures for Standard No. 208 and to the Preliminary Economic Assessment which accompanies this SNPRM.

It is important to note that, whatever unbelted test is included in Standard No. 208, manufacturers will be required under the final rule to certify all of their vehicles to a wide variety of new test requirements, and in a very short period of time. The analysis we presented earlier in this document concerning how many vehicles currently appear to meet the 48 km/h (30 mph) unbelted rigid barrier requirements for 50th percentile adult male dummies was intended to address the allegation that a return to the test would prevent continued use of redesigned air bags and require a return to overly aggressive air bags; it did not represent an analysis of how easy it would be to meet that particular test requirement in the context of the overall set of proposed requirements.

In commenting on the NPRM, vehicle manufacturers indicated that, as they consider various air bag designs, they face trade-offs in meeting different proposed test requirements. For example, the optimum air bag for meeting the unbelted rigid barrier test for the 50th percentile adult male driver dummy would be a large air bag filling the space between the dummy and the steering wheel. This would allow the restraining forces to be imparted earlier in the crash event and exert lower g forces on the occupant to allow optimal ride-down from the crash. A smaller air bag would be optimum for meeting the unbelted perpendicular rigid barrier test for 5th percentile adult female dummy in the full forward seating position, since she is positioned closer to the air bag and has less ride-down space to fill between the dummy and the steering wheel. If an excessively large air bag is used, neck readings for the 5th percentile adult female dummy will increase as the larger air bag pushes the head back. Of course, the smallest possible air bag would be optimum for meeting the proposed low risk deployment tests intended to minimize risks from air bags to out-of-position occupants. However, as air bags shrink,

so does their ability to provide protection, especially to larger occupants in crashes with potential for serious or fatal injuries. We note that while large air bags may be optimum for meeting the 30 mph unbelted rigid barrier test with 50th percentile adult male dummies, vehicle manufacturers have been able to meet the test with air bags of varying sizes.

Recognizing the issues associated with the need to meet all of the proposed tests together, we have tested current vehicles under a variety of proposed test procedures. For four of the vehicles for which we conducted a 48 km/h (30 mph) rigid barrier test using unbelted 50th percentile adult male dummies, we also conducted a 48 km/h (30 mph) rigid barrier test using unbelted 5th percentile adult female dummies. For all these tests, it bears emphasizing that these vehicles were not designed to comply with the final rule that will be issued in this rulemaking. Thus, while it is useful to know whether current vehicles already meet the tests, the test failures can tell us only which vehicles need to be redesigned. They do not indicate that vehicles cannot be redesigned in the time provided by TEA 21 to comply with that final rule.

Three of the four unbelted 5th percentile adult female driver dummy responses in these tests passed all the injury criteria performance limits we are proposing in the SNPRM. (For the same make model vehicles, the 50th percentile adult male driver dummy also passed all the injury criteria performance limits.). In the fourth test, of the MY 1999 Dodge Intrepid, the 5th percentile adult female driver dummy failed both the chest displacement and Nij performance limits; however the 50th percentile adult male driver dummy passed all the relevant injury criteria performance limits when tested in the same vehicle.

Two of the four unbelted 5th percentile adult female passenger dummy responses passed all the injury criteria performance limits. The MY 1999 Dodge Intrepid slightly exceeded the chest g performance limit (with a value of 62.2 g) and the MY 1999 Toyota Tacoma significantly failed to meet the Nij performance limit (with a value of 2.65).

Two of the four vehicles, the MY 1999 Saturn SL1 and the MY 1998 Ford Taurus, however, passed all the injury criteria performance limits for the driver and passenger using both unbelted 5th percentile adult female and unbelted 50th percentile adult male dummies in the rigid barrier crash tests at 48 km/h (30 mph).

We have also recently conducted rigid barrier tests at 48 km/h (30 mph) using belted 50th percentile adult male and belted 5th percentile adult female dummies in MY 1998 and 1999 vehicles. In 18 tests conducted with the belted 50th percentile adult male dummies, the vehicles passed all the proposed injury criteria performance limits for both driver and passenger. In 17 tests conducted with belted 5th percentile adult female dummies, the vehicles passed all the injury criteria performance limits for the passenger dummy; however, the driver dummy exceeded the proposed Nij injury criteria performance limit in approximately 35% of the tests.

We also conducted static out-of-position tests using the 5th percentile adult female driver dummy and 6-year-old child passenger dummy on six MY 1999 vehicles. The vehicles that were selected were the same as those used in the 48 km/h (30 mph) rigid barrier test with unbelted 50th percentile adult male dummies. (Again, we note that the vehicles were not designed with these test requirements in mind.) Four out of six vehicles, including the MY 1999 Saturn SL1, passed all the static out-of-position test requirements on the driver's side. The remaining two vehicles failed the Nij criteria in Position 1, but passed all the criteria in Position 2.

With the 6-year-old child dummies on the passenger side, only one vehicle, the MY 1999 Acura RL with a dual stage inflator, met all the proposed injury criteria performance limits in both Position 1 and Position 2 tests. Only the primary stage was fired in the tests.

Looking at the various tests we have conducted, it appears that the proposed test requirements are achievable by a number of vehicles even though they were not designed to comply with those requirements. These vehicles meet the 48 km/h (30 mph) unbelted barrier test with both unbelted 50th percentile adult male dummies *and* unbelted 5th percentile adult female dummies, *and* the driver side out-of-position test, with single level inflators. The MY 1999 Saturn SL1 appears to be such a vehicle.

Dual level inflators could make it easier to meet the tests. For example, a higher inflation rate could be used for 50th percentile adult males, while a lower inflation rate could be used for 5th percentile adult female drivers with the seat full forward and for child passengers.

We note that, for the passenger side, a weight sensor or other suppression device might be needed to meet passenger side out-of-position requirements for children, even if a dual level inflator is used. Moreover, a weight sensor or other suppression device would likely be needed to meet requirements for rear facing infant seats. However, the use of a weight sensor or other suppression device on the passenger side should not affect the ability of the vehicle to meet the proposed unbelted and belted crash test requirements using 50th percentile adult male dummies and 5th percentile adult female dummies, since the addition of such a device does not affect the characteristics of the air bag itself.

While the proposed requirements appear to be achievable, the number of failures illustrate that many vehicles will need to be redesigned in a short period of time to meet a highly complex set of new requirements. In many cases, manufacturers will be introducing several new technologies simultaneously: dual level inflators, seat belt sensors, weight/pattern seat sensors, seat track position sensors, more complex algorithms, etc.

In this context, we recognize that simultaneous implementation of these various proposals for minimizing risk and enhancing protection will necessitate considerable care and effort by the vehicle manufacturers. In a normal rulemaking, we would have broad discretion to adjust the implementation schedule to facilitate initial compliance. In this rulemaking, our discretion to set the schedule for implementing the amendments required by TEA 21 is limited by that Act. Our final rule must provide that the phasing-in of those amendments begins not later than September 1, 2003, and ends not later than September 1, 2006.

However, we believe that nothing in TEA 21 derogates our inherent authority to make temporary adjustments in the requirements we adopt if, in our judgment, such adjustments are necessary or prudent to promote the smooth and effective achievement of the goals of the amendments. For example, adjustments could be made to test speeds or injury criteria. One possibility would be to issue a final rule temporarily reducing the maximum speed for the unbelted rigid barrier test to 40 km/h (25 mph) (or some other speed, e.g., 44 km/h (27.5 mph)) and then increasing it to 48 km/h (30 mph) after an appropriate period of time, e.g., after the TEA 21 phase-in. Another possibility would be to temporarily permit relaxed injury criteria performance limits (e.g., 72 g chest acceleration limit instead of 60 g chest acceleration limit) in unbelted rigid barrier tests between 25 mph and 30 mph.

This document seeks comment on still another possibility for the final rule: permanently reducing the unbelted rigid barrier test speed to 40 km/h (25 mph) and temporarily leaving the belted rigid barrier test speed at 48 km/h (30 mph). Under the final rule, the latter test speed would later, sometime after the TEA 21 phase-in schedule, increase to 56 km/h (35 mph).[23]

We note that we have previously considered, in rulemaking, a 40 km/h (25 mph) maximum speed for the unbelted rigid barrier test. However, we considered this issue in the context of Standard No. 208's historic requirements, i.e., testing only with 50th percentile adult male dummies and the old injury criteria, which did not include neck criteria.

Fifteen years ago, in our rulemaking establishing automatic protection requirements, GM advocated a 40 km/h (25 mph) unbelted rigid barrier test to facilitate passive interiors, *i.e.*, building in safety by improving such things as the steering columns and padding. At that time, GM believed passive interiors would be better than automatic restraints, *i.e.*, air bags or automatic seat belts.

Based on available test data, we concluded that it was generally evident that it was within the state-of-the art to pass Standard No. 208's head and chest injury criteria at 40 km/h (25 mph) with unbelted 50th percentile adult male dummies without air bags. We stated that we had virtually no data on what diminution in safety would occur if the lower standard were used and that there was no basis for making such a change. See final rule published in the **Federal Register** (49 FR 28962, 28995; July 17, 1984).

We also note that, for the vehicles we recently tested at 48 km/h (30 mph) for this rulemaking, we also tested a small subset at 40 km/h (25 mph) with unbelted 50th percentile male driver and passenger dummies. In the three tests, the vehicles passed all the proposed driver and passenger injury criteria performance limits with one exception involving a model year 1999 Toyota Tacoma. The passenger dummy exceeded the proposed Nij limit in this test. We also conducted two 40 km/h (25 mph) rigid barrier crash tests with unbelted 5th percentile adult female driver and passenger dummies. Again, the vehicles passed all the proposed driver and passenger injury criteria performance limits with one exception involving the model year 1999 Toyota Tacoma. Again, the passenger dummy exceeded the proposed Nij limit on the passenger side.

In light of the fact that vehicle manufacturers are now recommending an unbelted rigid barrier crash test alternative that omits the oblique tests, we also note that we addressed the possibility of eliminating the unbelted oblique tests in the aftermath of that same rulemaking. See NPRM published in the **Federal Register** (50 FR 14589, 14592–14594) on April 12, 1985, and final rule published in the **Federal Register** (51 FR 9800, 9801–9802) on March 21, 1986.

We decided to retain the oblique tests in that rulemaking. We noted that although oblique tests generally produce lower injury levels, they do not consistently produce that result. We also expressed concern that air bags that only need to meet a perpendicular impact could be made much smaller. We stated that, in such a case, in an oblique crash, an unbelted occupant could roll off the smaller bag and strike the A-pillar or instrument panel.

We welcome comments on how we should consider our past decisions and the rationales underlying them in this current rulemaking.

We note that while we are seeking comments on alternative unbelted tests, including alternative speeds and injury criteria, we plan to adopt a single unbelted test or set of unbelted tests for the final rule. That is, we do not plan to provide a manufacturer option in this area. Depending on the comments, we may adopt some combination of the tests discussed above.

To help us reach a decision on what unbelted test requirements should be included in Standard No. 208, we request commenters to address the following questions:

1. How do the two proposed alternative unbelted crash tests compare in representing the range of frontal crashes which have a potential to cause serious injuries or fatalities? Please answer this separately for the low and high end of the proposed range of upper speeds for each alternative, *i.e.*, 40 and 48 km/h (25 and 30 mph) for the unbelted rigid barrier test and 48 and 56 km/h (30 mph and 35 mph) for the unbelted offset deformable barrier test. In answering this question, please consider the entire range of tests incorporated into each alternative. Please specifically address representativeness with respect to (a) crash pulses, (b) crash severities, and (c) occupant positioning, and provide separate answers for crashes likely to cause fatalities and crashes likely to cause serious but not fatal injuries.

2. How do the two alternatives compare with respect to repeatability, reproducibility, objectivity, and practicability issues?

3. What effects would each of the alternative types of unbelted tests and each of the alternative maximum test speeds discussed in this SNPRM have on air bag design, performance, risks and benefits, and on amount of depowering permitted? Answers should focus particularly on unbelted 40 km/h (25 mph)/belted 56 km/h (35 mph) versus unbelted 48 km/h (30 mph)/ belted 48 km/h (30 mph), and on unbelted 56 km/h (35 mph)offset/belted 48 km/h (30 mph) versus unbelted 48 km/h (30 mph)/belted 48 km/h (30 mph). To what extent can it be concluded that a countermeasure needed to meet each alternative would ensure protection in frontal crashes not directly represented by the tests included in that alternative, e.g., crashes with different pulses (harder or softer) or different severities (more severe or less severe)? Please quantify, to the extent possible, the amount of protection that would be ensured in other types of crashes, i.e., what the injury criteria measurements would be. Please address whether and how the answer to this question would differ for the low and high end of the proposed range of upper speeds for each alternative.

4. To what extent would current air bag systems (or air bag systems being developed for near-term application) have difficulty distinguishing between a high speed offset deformable barrier test and a low speed crash during the time the decision whether to deploy the air bag must be made? What technological solutions, e.g., advanced sensing systems (including use of satellite sensors and improved algorithms) are available to address this potential problem? How should we consider this issue in selecting among the available unbelted crash test alternatives?

5. One reason for adopting a test requirement that is less stringent than another during the TEA 21 phase-in period would be to provide an extra margin of flexibility and facilitate compliance during the time vehicle manufacturers are introducing advanced air bags incorporating multiple new technologies. An example of such an approach would be the phase-in sequence described above in which the final rule would provide that the maximum speed for the unbelted rigid barrier test would initially be 40 km/h

[23] We recognize that this alternative would increase the test speed of the belted test to the level of the belted test currently conducted under NHTSA's NCAP program. If this alternative were chosen, NHTSA contemplates retaining the current NCAP test speed through the end of the TEA 21 phase-in period. The agency would then review that NCAP test.

(25 mph) (or some other speed) and then increase to 48 km/h (30 mph) after an appropriate fixed period of time. If we were to adopt a less stringent test requirement for an initial period, how long should that period be and why?

6. What factors should we consider in selecting a maximum speed for the two alternatives?

7. The severity of a crash test requirement could be adjusted either by reducing the maximum speed at which the test is conducted or by leaving the maximum speed unchanged, but relaxing the injury criteria performance limits for the tests that are conducted near the upper end of the range of test speeds. For example, if we were to reduce temporarily the severity of the unbelted up-to-48 km/h (30 mph) rigid barrier test, one possible way of doing this would be to reduce the stringency of the injury criteria performance limits between 40 km/h (25 mph) (or some other speed) and 48 km/h (30 mph). While this could provide significant increased flexibility to vehicle manufacturers, it could still address the issue of protection in higher speed crashes. Also, certification and compliance test data could be directly compared to that obtained in 48 km/h (30 mph) rigid barrier crash tests over many years. We specifically request comments on this approach and what injury criteria performance limits would be appropriate if we were to adopt it.

8. Should we consider combining aspects from each of the two unbelted alternatives? For example, the unbelted rigid barrier test alternative includes both perpendicular and angle tests. A variation on this approach might be to retain the perpendicular test, but replace the angle tests with offset deformable barrier tests. We request comments on this or any other possible ways of combining aspects from the two unbelted alternatives.

9. Given the existing and anticipated advanced air bag technologies, to what extent is it necessary, and why, to link decisions about improving protection to decisions about minimizing the risks? What portion of those risks would remain after full use of existing and anticipated advanced air bag technologies?

10. If it is believed that a return to the 48 km/h (30 mph) unbelted barrier test would necessitate an increase in the power of any vehicle's air bags, indicate which models would need air bags with increased power and indicate the potential amount of increase. Explain how the amount of needed increase was determined and the effects on safety of such an increase.

11. To what extent could non-air bag changes, such as improved crush zones, be used to avoid any increases in air bag aggressivity if there were a return to the 48 km/h (30 mph) unbelted barrier test? To what extent can advanced features such as improved fold patterns, lighter fabrics and recessed air bag modules be used to offset, or more than offset, any increases in power so that those increases do not result in increased air bag aggressivity?

12. To what extent could the various types of static suppression be used to reduce the risk to children? In what circumstances would such suppression not minimize risk? To what extent could the lower level of dual-level inflators be linked with sensors of such factors as crash severity, seat position, belt use and weight/pattern be used to reduce the risk to drivers who adjust their seats full forward or nearly full forward? In what circumstances would such technology not minimize risk? If there would be residual risk to children or to those drivers after the use of those technologies, what is the magnitude of that risk? To what extent would that residual risk be affected by the decision regarding an unbelted test requirement?

13. To what extent does each vehicle manufacturer plan to take full advantage, across their vehicle fleets, of the advanced air bag and other technologies mentioned in questions 11 and 12 above?

14. Given that available test data indicate that some vehicles already meet or exceed the injury criteria for 50th percentile male dummies in unbelted 48 km/h (30 mph) tests, explain why those margins of compliance cannot be increased in the time provided by the TEA 21 schedule and why other vehicles cannot be designed to achieve similar margins of compliance.

15. Provide test data and analysis to support the answers to questions 1–14.

16. To what extent do available test data regarding advanced air bag technologies support the appropriateness of or need for each of the alternative types unbelted tests and each of the alternative maximum test speeds discussed in this SNPRM? Answers should focus particularly on unbelted 40 km/h (25 mph)/belted 56 km/h (35 mph) versus unbelted 48 km/h (30 mph)/belted 48 km/h (30 mph), and on unbelted 56 km/h (35 mph)offset/belted 48 km/h (30 mph) versus unbelted 48 km/h (30 mph)/belted 48 km/h (30 mph).

17. What lead time would be needed for a 56 km/h (35 mph) belted rigid barrier test requirement?

ii. Proposed Array of Crash Test Requirements.

As noted earlier, vehicle manufacturers argued that some of the crash test requirements we proposed in the NPRM were redundant, given the other tests. In developing this SNPRM, we have carefully considered whether we could reduce the number of proposed tests without significantly affecting the benefits of the NPRM. Using the methodology for counting tests discussed earlier in this document, we are proposing a total of nine crash tests instead of 14.

The specific nine tests differ, of course, depending on which alternative unbelted tests are included.

The set of nine tests which includes the unbelted rigid barrier test includes the following tests:

—belted rigid barrier test (perpendicular and up to ± 30 degrees) using 50th percentile adult male dummies (counts as three tests: one at +30 degrees, one perpendicular, and one at −30 degrees);
—belted rigid barrier test (perpendicular only) using 5th percentile adult female dummies;
—unbelted rigid barrier test using 50th percentile adult male dummies (counts as three tests);
—unbelted rigid barrier test (perpendicular only) using 5th percentile adult female dummies; and
—belted up-to-40 km/h (25 mph) offset deformable barrier test (driver side of the vehicle engaged with the barrier) using 5th percentile adult female dummies.

This set of proposed tests eliminates five tests that were included in the NPRM. First, for both the belted and unbelted rigid barrier tests, we are proposing to test the 5th percentile adult female dummy in the perpendicular test only, i.e., not in oblique tests. This would eliminate four tests.

In many cases, crash tests become less stringent as dummies become lighter and/or closer to the air bag. However, this is not true if the dummy is so close that it contacts the air bag early in the deployment process. For the rigid barrier test using 5th percentile adult female dummies, the condition in which this would most likely occur is in a perpendicular impact. Therefore, we believe that the perpendicular tests (belted and unbelted) would address this concern. We also believe that, if the vehicle can pass the perpendicular test with 5th percentile female dummies and the oblique tests with 50th percentile adult male dummies, it will also pass

the oblique tests using 5th percentile adult female dummies.

The primary function of the oblique test is to assure a wide air bag. The 50th percentile adult male dummy presents a greater challenge than the 5th percentile adult female dummy does in such a test. Thus, the oblique tests with the 5th percentile adult female dummy would add test costs without providing additional safety benefits.

Second, for the belted up-to-40 km/h (25 mph) offset deformable barrier test, we are proposing that the test be conducted only with the driver side of the vehicle engaged with the barrier. This would eliminate one additional test. We believe that testing the vehicle on the driver side only would be a sufficient means of testing air bag sensing systems.

We note, by contrast, that we believe it would be necessary to test the vehicle with each side of the vehicle engaged if we adopted the unbelted high speed offset deformable barrier test instead of the unbelted rigid barrier test to ensure that the air bags are wide enough to provide protection for occupants that move forward in a direction that is either to the right or left of perpendicular.

The set of nine tests which includes the unbelted high speed offset deformable barrier test includes the following tests:

—belted rigid barrier test (perpendicular and ± 30 degrees) using 50th percentile adult male dummies (counts as three tests);
—belted rigid barrier test (perpendicular only) using 5th percentile adult female dummies;
—unbelted offset deformable barrier test (driver and passenger sides of vehicle engaging the barrier) using 50th percentile adult male dummies (counts as two tests);
—unbelted offset deformable barrier test (driver and passenger sides of vehicle engaging the barrier) using 5th percentile adult female dummies (counts as two tests); and
—belted up-to-40 km/h (25 mph) offset deformable barrier test (driver side of the vehicle engaged with the barrier) using 5th percentile adult female dummies.

In the NPRM, we proposed specifications for the deformable barrier to be used in offset deformable barrier tests. The specifications for this barrier would be included in Part 587. We are not republishing the specifications in this SNPRM but expect to proceed to a final rule in a separate document. We do not expect any significant changes from the NPRM.

We also proposed in the NPRM to include, for all crash tests specified by the standard, certain vehicle integrity requirements. The proposal specified that vehicle doors may not open during the crash test and that, after the crash test, it must be possible for technicians to open the doors and move the seats as necessary to allow evacuation of all occupants.

Several commenters raised concerns about these proposed requirements, including ones relating to objectivity. After considering the comments, we have decided to drop these requirements from the SNPRM.

While we believe it is important for doors to remain closed during crashes, and for occupants to be extricated from a vehicle after a crash, we believe that significant additional development of the proposed test procedures would be necessary for a final rule. Moreover, we believe this subject is sufficiently distinct from advanced air bags so as to best be considered in other contexts, particularly with the need for us to issue a final rule on advanced air bags by March 1, 2000.

iii. Location and Seating Procedure for 5th Percentile Adult Female Dummy

A seating procedure for the 5th percentile adult female test dummy is detailed in section S16 of the proposed regulatory text. The procedure takes into account two separate concerns. The first issue is where to place the vehicle seat during testing; the second issue is how to place the dummy in the vehicle seat.

From the outset, crash tests with 50th percentile adult male dummies have been conducted with the seat in the middle seat track position. We do not propose to change that provision. However, we have proposed in the NPRM and this SNPRM to conduct tests with 5th percentile adult female dummies with both the driver and passenger seats in the full forward position. We believe that this is the most vulnerable position for occupants in the real world and is also the most demanding for the occupant protection system. Individual drivers who are approximately the size of the 5th percentile adult female dummy are the most likely, because of their size, to sit farther forward than the middle seat track position and are more likely than larger drivers to use the full forward position. Occupants of any size may occasionally use that seat position on the passenger side, depending on the passenger or cargo space needs in the back seat. As a general principle, we believe that people should be able to safely use a seat as it was designed to be used.

If manufacturers find they cannot provide protection to individuals properly positioned in the forward track position, they have the option of moving that position back, particularly on the passenger side. With respect to the driver side, manufacturers might have to make other adjustments to the vehicle, such as providing adjustable pedals, that would allow small-statured drivers to operate the vehicle.

Nevertheless, we are aware that the placement of the 5th percentile adult female dummy in the full forward position tests the occupant restraint system under a condition that may rarely occur in the real world. The University of Michigan Transportation Research Institute (UMTRI) has found that drivers who are approximately the same size as the 5th percentile adult female dummy generally do not sit in the full forward seat track position. Other commenters have stated that the front passenger seat would never need to be placed in the full forward position due to occupant size. Rather, placement of the passenger seat in that track position would only occur on those rare occasions when the entire space in the back seat was needed for cargo or other purposes.

Another concern is whether, in order to meet tests for conditions that rarely occur in the real world, manufacturers might select air bag designs that offer reduced fatality-reducing protection for conditions that are more common.

We also note that, under our proposal, the 5th percentile adult female dummy would also be tested on the driver side in two out-of-position tests that place the dummy directly on the air bag module. While this would not ensure protection in a high speed crash, it would ensure that the air bag does not cause harm.

Accordingly, we are interested in comments on whether testing the 5th percentile adult female dummy with the seat position in something other than the full forward seat track position would adequately protect properly-seated individuals of all sizes while potentially allowing more design freedom.

The proposed seating procedure was developed considering the work performed by the SAE Hybrid III 5th Seating Procedure Task Group and by NHTSA's Vehicle Research and Test Center (VRTC). The 50th percentile Hybrid III adult male dummy is the only dummy currently used for Standard No. 208 compliance crash testing. For that testing, the dummy is positioned according to S10 of the standard. As part of that procedure, the H-point of the dummy is located using the manikin

and procedures in SAE Standard J826.[24] For the 5th percentile adult female dummy, the SAE task group is currently voting and commenting on the acceptability of a procedure that uses an SAE Standard J826 50th percentile adult male manikin with reduced length legs to locate the H-point of the 5th percentile adult female dummy. Then a dummy positioning procedure is used to place the female dummy at the H-point located by the modified manikin. It is unknown when this procedure will be completed.

Given the absence of an SAE-accepted seating procedure for the 5th percentile adult female dummy, we decided to perform some of our own positioning tests so that a 5th percentile adult female procedure would be available for this rule. VRTC positioned a 5th percentile adult female dummy several times in various vehicles using a positioning procedure without intermediate seating devices. The H-point location was measured and the variation in H-point location between repeats was reviewed. Then the 5th percentile adult female prototype manikin (supplied by Ford Motor Company) was used to locate the H-point with respect to the seat. The variation in H-point location between repeats was reviewed.

The procedures demonstrated that the location of the H-point of the 5th percentile adult female dummy and the H-point of the 5th percentile adult female prototype manikin with respect to the seat were very similar. Longitudinally, the difference in the average ''H'' point location between the dummy and the manikin varied from 1 mm to 17 mm (0.04 in. to 0.67 in.). Vertically, the comparable figures were 4 mm to 10 mm (0.16 in. to 0.41 in.). Since there was little difference between the two methods, the extra step of using the manikin to determine the H-point location was found to be unnecessary. In addition, there is no guarantee of when the 5th percentile adult female manikin would be available and accepted for use by the safety community. Therefore, VRTC developed the procedures that are in section S16 of the proposed rule.

We believe it would be appropriate to use the manikin procedure for the 50th percentile adult male dummy and not for the 5th percentile adult female dummy. The 50th percentile adult male dummy (78 kg (171 pounds)) is 28 kg (63 pounds) heavier than the 5th percentile adult female (49 kg (108 pounds)) and therefore much more difficult to maneuver into position. The 50th percentile adult male manikin H-point provides a specific target for this heavy dummy so that it can be positioned in the seat. The lighter 5th percentile adult female dummy does not need this target. In addition, the 5th percentile adult female buttocks profile may fit differently into a highly curved fitted seat than the 50th percentile adult male dummy and therefore the use of the 50th percentile adult manikin for the 5th percentile adult female dummy seating procedure may cause more variability in dummy positioning. Thus we believe the proposed non-manikin procedure makes it easier to repeatedly position the 5th percentile adult female dummy.

2. Tests for Requirements To Minimize the Risk to Infants, Children and Other Occupants From Injuries and Deaths Caused by Air Bags

a. Safety of Infants.

Infants in rear-facing child safety seats (RFCSS) are at significant risk from deploying air bags, since the rear facing orientation of the child seat places their heads extremely close to the air bag cover. This is why we emphasize that infants in RFCSS must never be placed in the front seat unless the air bag is turned off.

In the NPRM, in order to address the risks air bags pose to infants in RFCSS, we proposed two alternative test requirements, the selection of which would be at the option of the manufacturer. The two manufacturer options were: (1) test requirements for an automatic air bag suppression feature or (2) test requirements for low-risk deployment involving deployment of the air bag in the presence of a 12-month old Child Restraint Air Bag Interaction (CRABI) dummy in a RFCSS.

Under the NPRM, if the automatic suppression feature option were selected, the air bag would need to be suppressed during several static tests using, in the right front passenger seat, a 12 month old child dummy in a RFCSS, and also during rough road tests. The RFCSS would be placed in a variety of different positions during the static tests. In order to ensure that the suppression feature did not inappropriately suppress the air bag for small-statured adults, the air bag would need to be activated during several static tests using a 5th percentile adult female dummy in the right front passenger seat, and also during rough road tests using that dummy.

If the low risk deployment option were selected, a vehicle would be required to meet specified injury criteria when the passenger air bag is deployed in the presence of a 12 month old child dummy placed in a RFCSS. In the case of air bags with multiple inflation levels, the injury criteria would need to be met for all levels.

For our SNPRM, we are proposing the same two basic options, but with several changes.

First, under the NPRM, manufacturers would have been required to assure compliance in tests using any child restraint capable of being used in the rear facing position which was manufactured for sale in the United States between two years and ten years prior to the date the first vehicle of the MY carline of which the vehicle is a part was first offered for sale to a consumer. For our SNPRM, manufacturers would be required to assure compliance using any child restraint included in a list of representative child restraints that we are proposing to add as an appendix to Standard No. 208. The list would be periodically updated to reflect changes in the types and designs of available child restraints. We believe this approach addresses the practicability and cost concerns raised by commenters but still ensures that vehicle manufacturers take account of the variety of different RFCSS as they design their systems. The issue of how we selected the proposed list of child restraints is discussed later in this notice.

Second, our SNPRM drops the proposed rough road tests. We proposed those tests to address the possibility that some types of automatic suppression features, e.g., weight sensors, might be ''fooled'' by occupant movement associated with riding on rough roads. The proposed tests were intended to ensure such devices were designed so they do not turn on the air bag in the presence of a small child who is bouncing as a result of riding on a rough road, and so that they do not turn off the air bag in the presence of a small-statured adult who is bouncing as a result of riding on a rough road.

After considering the comments, we have tentatively concluded that it is not necessary to include rough road tests in Standard No. 208. As we have discussed in other areas, in the context of a statutory scheme requiring us to issue performance requirements (as opposed to one requiring design requirements or government approval), it is neither appropriate nor possible for us to

[24] The following dockets discussed the use of the J826 manikin for the 50th percentile adult male dummy.

1. 74–14–Notice 39: NPRM to amend Part 572, allowing optional use of Hybrid II or III, sunset for use of Hybrid II.

2. 74–14–Notice 45: Final Rule adopting Hybrid III.

address every real world variable that can affect safety. Ultimately, the vehicle manufacturers must be expected to design their vehicles not only so they meet the performance requirements specified by the Federal motor vehicle safety standards, but also in light of the full range of real world conditions their vehicles will experience.

We believe rough road performance is an area that vehicle manufacturers will consider and address in the absence of Federal requirements. We also note that a number of technical issues have been raised about the proposed rough road tests, including how to keep dummies from falling over during the tests. We do not believe it would be a good use of agency resources at this time to make further efforts to develop test procedures in this area. If necessary, failures to assure adequate air bag performance in the rough road context could be addressed under our authority to investigate safety-related defects.

Third, for the proposed static tests that must result in deactivation of the passenger air bag, we have reduced the number of positions in which the infant dummy/child seat is tested from seven to five. Our proposal adds one new position, where the RFCSS is oriented so that the infant faces forward and the seat is then tipped against the instrument panel. This is a position that could occur as a result of pre-impact braking if the RFCSS is not secured by the vehicle belt system. We have dropped four of the positions proposed in the NPRM in order to reduce test complexity and costs. We believe that systems that would be suppressed at the five proposed positions would also be suppressed at the other positions.

Fourth, for the tests designed to ensure that the suppression feature does not inappropriately suppress the air bag for small statured adults, human beings could be used in the place of 5th percentile adult female dummies. The subject of permitting human beings to be used in place of dummies for certain static tests is discussed in the next section.

Fifth, we have made a change with respect to how air bags with multiple inflation levels would be tested for the low risk deployment test. As indicated above, we proposed in the NPRM to require injury criteria to be met for all levels of inflation. This reflected the fact that a child in a RFCSS would be extremely close to the passenger air bag in any crash.

We have not changed our basic philosophy on this issue, but want to address the possibility that vehicles might be designed so that only a lower inflation level deploys in the presence of a RFCSS, regardless of crash severity. To address this possibility, we are proposing in this SNPRM to require injury criteria to be met for any stage or combination of stages which may deploy in the presence of an infant in a RFCSS in a rigid barrier crash test at speeds up to 64 km/h (40 mph). We believe that all stages of inflation that would deploy in the presence of a RFCSS would be encompassed in crash tests at that range of severity levels.

b. Safety of Young Children.

Young children are at special risk from air bags because, when unbelted, they are easily propelled close to the air bag as a result of pre-crash braking. Their small size and weight also makes them more vulnerable to injury when interacting with a deploying air bag. We strongly recommend that young children ride in the back seat, because the back seat is safer whether or not a vehicle has air bags.

In the NPRM, in order to address the risks air bags pose to young children who do ride in the front seat, we proposed requirements using both 3-year old and 6-year old child dummies. We proposed four alternative test requirements, the selection of which would be at the option of the manufacturer. Manufacturers could select different options for the 3-year-old and 6-year-old dummies.

The four manufacturer options were: (1) test requirements for an air bag suppression feature that suppresses the air bag when a child is present, e.g., a weight or size sensor, (2) test requirements for an air bag suppression feature that suppresses the air bag when an occupant is out of position, (3) test requirements for low risk deployment involving deployment of the air bag in the presence of out-of-position 3-year old and 6-year-old child dummies, or (4) full scale dynamic out-of-position test requirements, which include pre-impact braking as part of the test procedure.

Our SNPRM follows the same basic approach as the NPRM, but with several differences.

Most significantly, the number and type of manufacturer options are changed somewhat. Our SNPRM continues to include, with certain changes, the first and third of the options listed above, i.e., test requirements for an air bag suppression feature that suppresses the air bag when a child is present, e.g., a weight or size sensor, and test requirements for low risk deployment involving deployment of the air bag in the presence of out-of-position 3-year-old and 6-year-old child dummies.

Our SNPRM also includes the second option, test requirements for an air bag suppression feature that suppresses the air bag when an occupant is out-of-position, but with major changes. The fourth option, testing with dynamic pre-crash braking, has been dropped from this rulemaking.

In the sections which follow, we discuss the three options we are including in this SNPRM, as well as our reasons for any significant changes and for dropping the fourth option.

Requirements for an air bag suppression feature (e.g., weight or size sensor) that suppresses the air bag when a child is present. As discussed in the NPRM, these requirements would be very similar to those being proposed with respect to a suppression feature for infants in RFCSS. Under the NPRM, if this option were selected, the air bag would need to be deactivated during several static tests using, in the right front passenger seat, a 3-year-old or 6-year-old child dummy and also during rough road tests. The child dummy would be placed in a variety of different positions during the static tests. Some of the positions specify placing the dummy in a forward-facing child seat or booster seat. The air bag would be required to be activated during specified tests using a 5th percentile adult female dummy.

For the SNPRM, we have made a number of changes similar to those discussed above with respect to a suppression feature for infants in RFCSS. In particular:

- Instead of requiring manufacturers to assure compliance in tests using any child restraint which was manufactured for sale in the United States for a specified number of years prior to manufacture, we would require them to assure compliance using any child restraint included in a list of representative child restraints that we are proposing to add as an appendix to Standard No. 208.
- We are dropping the proposed rough road tests.
- For the proposed static tests which must result in deactivation of the passenger air bag, we have reduced the number of positions in which the child dummy or child dummy/child seat are tested. For the three-year-old child dummy, the number of positions is reduced from 17 to 10. For the six-year-old child dummy, the number of positions is reduced from nine to six. We believe that systems that would be suppressed at the proposed positions would also be suppressed at the other positions.

We are also proposing to allow manufacturers to comply with and certify to these suppression requirements using children, instead of

3-year-old and 6-year-old child dummies. Adult females could also be used in the place of 5th percentile adult female dummies for the portions of those test requirements which make sure that the air bag is activated for adults.

We are proposing to permit manufacturers to use human beings in light of concerns that current dummies may not be sufficiently human-like to be recognized by some of the advanced technologies under development. For example, suppression devices that work by sensing the distributed weight pattern of a human being may not recognize the pattern of a test dummy. If a manufacturer selects this option, the requirements would need to be met at each of the relevant positions for any human being within a specified weight/height range for 3-year-old and 6-year-old children and 5th percentile adult females.

It is important to emphasize that these tests simply involve a child or adult assuming specified positions in the vehicle, with a technician checking (typically by looking at a light) whether the air bag would be activated or deactivated; these tests do not involve deploying the air bag or moving the vehicle. To ensure absolute safety, we are proposing to require manufacturers selecting this option to provide a method to assure that the air bag will not activate during testing; such assurance may be made by removal of the air bag. The manufacturer would also be required to provide a method to assure that the same test results would be obtained if the air bag had not been deactivated or removed.

Test requirements for a feature that suppresses the air bag when a child is out-of-position. As discussed in the NPRM, we believe that a feature that suppresses the air bag when an occupant is out-of-position, either initially or because of moving into such a location during pre-crash braking, needs to be tested very differently from one that suppresses the air bag whenever a child is present. While various static tests can be used to determine whether the latter type of suppression device is effective, they would be of limited utility in testing a feature that suppresses the air bag when an occupant moves into an out-of-position location. This is because one of the key criteria in determining whether the dynamic out-of-position suppression feature is effective is timing, *i.e.*, whether the feature works quickly enough in a situation where an occupant is propelled out of position as a result of pre-crash braking (or other pre-crash maneuvers). We have accordingly developed separate requirements for such dynamic suppression devices.

Under the NPRM, if this option were selected by the vehicle manufacturer, the manufacturer would be required to provide a telltale indicating whether the air bag was activated or deactivated. Operation of the suppression feature would be tested through the use of a moving test device which would be guided toward the area in the vehicle where the air bag is stored.

In the NPRM, we summarized the proposed test requirements as follows:

> [The] test device would begin its course of travel in a forward direction toward a target area inside the vehicle. This target area, the air bag suppression zone, consists of a portion of a circle centered on the geometric center of the vehicle's air bag cover. The function of the air bag suppression system would be tested through the use of a headform propelled toward the air bag suppression zone at any speed up to 11 km/h (7 mph)—equivalent to a typical speed that the head of an occupant attains in pre-crash braking. When the test fixture enters the area near the air bag—the air bag suppression zone—where injuries are likely to occur if the air bag deploys, the telltale is monitored to determine if the suppression feature has disabled the air bag. . . .
>
> The automatic suppression plane of the vehicle, the point at which the air bag suppression feature must be activated when the plane is crossed by the headform, is located at that point rearward of the air bag and forwardmost of the center of gravity of the head of a seated occupant which the manufacturer determines to be that point where, if the air bag is deployed, a 3-year-old child dummy would meet specified injury criteria.

63 FR 49974, September 18, 1998.

We received a number of comments on our proposal in this area. These comments were submitted by manufacturers, suppliers, industry groups and safety organizations.

While the comments indicated general support for a test option that would permit this type of suppression design, the commenters raised many issues about the feasibility and appropriateness of the agency's proposed test procedure. We note that while much work is currently being done on the development of dynamic automatic suppression systems (DASS), the technology is still not mature. In addition, a number of differing technologies are currently being considered. Each one of these technologies has particular attributes which affect the appropriateness of the means used to evaluate its performance. This makes our task in formulating performance requirements and test procedures much more difficult.

For this SNPRM, we have decided to drop the out-of-position suppression system test proposed in the NPRM. After considering the comments, we have concluded that procedure has several flaws.

First, the use of a test headform, while allowing a quasi-static, in-vehicle test, appears to be inappropriate for several technologies now under consideration. In particular, the use of a headform alone, without an accompanying torso, presents severe difficulties for ultrasound based systems. In actual use, as opposed to a test, these systems use sound reflections from the torso as well as the head, in order to locate and track an occupant.

We are also concerned that the use of a headform alone would not be appropriate for a DASS that uses information from multiple types of sensors. For example, seat belt sensors, seat mat pressure sensors, seat-mounted capacitance sensors, and seat location sensors might be incorporated in a suppression system to locate an occupant or measure the characteristics of an occupant and to assist the system in deciding whether to suppress an air bag.

Second, the proposed test procedure's inclusion of a quasi-static, in-vehicle test may be inappropriate for evaluating the performance of some DASS designs. A system using inputs such as crash severity (change in velocity, rate of deceleration, etc.) could not be adequately tested by a quasi-static test. Similarly, such a test may not be adequately representative of an actual crash.

However, we believe that DASS holds significant promise for improving occupant safety. Instead of foreclosing the use of such technology as a means of compliance, we have tentatively concluded that continued development of this technology warrants a different approach to rulemaking.

We are therefore proposing an option which would specify minimum performance requirements for DASS, in conjunction with an amendment to our procedures governing petitions for rulemaking (49 CFR Part 552) that would facilitate expedited consideration and, if appropriate, adoption of a test procedure when technological advances make such dynamic suppression systems feasible. Under this SNPRM, we are proposing to require manufacturers seeking to manufacture vehicles under this compliance option to equip those vehicles with a DASS that automatically controls air bag deployment by sensing the location and the characteristics of an occupant, and determining, based on that information, whether the air bag

should be deployed. The DASS must be capable of turning off the air bag when an occupant enters into an Automatic Suppression Zone (ASZ) defined by the vehicle manufacturer.

The proposal provides for specific expedited rulemaking procedures regarding the test procedures for evaluating these systems. Under these procedures, interested persons (which as a practical matter would likely be either vehicle manufacturers or air bag manufacturers) could submit a petition for rulemaking to establish, on an expedited basis, a test procedure for evaluating a DASS. Target time limits for each phase of such a rulemaking are proposed. As the petition would serve as a basis for our expedited adoption of a test procedure, it would need to contain specific detailed information. Included in this required information would be a complete description of the specifications, design, and performance of the system or systems to be tested by the suggested test; drawings and/or representative samples of the test devices and equipment to be employed in the test; test procedures, including test device positioning procedures for the suggested test; and data and films generated in performing the proposed test. Of course, the test must meet applicable statutory requirements relating to Federal motor vehicle safety standards.

We could reject or withhold consideration of any petition that is incomplete. The petition would need to be submitted nine months before the requested effective date, to allow sufficient time for agency review and public comment.

While a petitioner could submit confidential information in support of its petition, it would need to make public the complete test procedure and a sufficient general description of the system to enable us to provide a meaningful opportunity for public comment.

If the agency published a notice proposing the adoption of the requested test procedure, it would then consider the public comments and decide whether the procedure should be added to Standard No. 208. If it decided to do so, and if the procedure were suitable for the DASS of any other vehicles, then the procedure could be used by those manufacturers of those vehicles as well as by the petitioning manufacturer.

The agency emphasizes that its intention is that Standard No. 208 ultimately provide that all similar DASSs, e.g., those relying on the same types of sensors, would be tested in the same fashion. Initially, however, the agency's efforts to facilitate the quick introduction of DASSs by conducting expedited rulemakings might result, in some cases, in the adoption of different procedures for similar DASSs. To minimize this possibility, the agency would expect manufacturers which decide to petition for the adoption of a procedure for a DASS, instead of relying upon a previously adopted procedure for the same or similar type of DASS, to justify the need for a new and different procedure. Further, the agency would seek in the long run to amend Standard No. 208 to eliminate any unnecessary duplication or variation in test procedures.

Static tests to assure low-risk deployment of the air bag in the presence of out-of-position 3-year-old and 6-year-old child dummies. Our proposal in this area is not significantly different from the NPRM. If the low risk deployment option were selected, a vehicle would be required to meet specified injury criteria when the passenger air bag is deployed in the presence of out-of-position 3-year-old and 6-year-old child dummies. We are proposing that it be conducted at two positions which tend to be ''worst case'' positions in terms of injury risk. We are also proposing more detailed positioning procedures for these two tests than for many of those proposed for the static suppression tests, since injury measures may vary considerably with position.

In the case of air bags with multiple inflation levels, the injury criteria would need to be met only for the levels that would be deployed in lower severity crashes. While an infant in a RFCSS would always be extremely close to the passenger air bag, this is not true for older children. An older child would most likely be extremely close to the air bag in lower severity crashes, following pre-crash braking.

In the NPRM, we proposed that the injury criteria would need to be met only for the inflation levels that would be deployed in crashes of 32 km/h (20 mph) or below. In order to determine what inflation levels would deploy in such crashes, we proposed a test procedure which included three types of crash tests: a rigid barrier test, an offset frontal deformable barrier test, and a pole test.

For the SNPRM, we are proposing that the injury criteria in static out-of-position tests would need to be met only for the levels that would be deployed in crashes of 29 km/h (18 mph) or below. We have reduced the upper speed from 32 to 29 km/h (20 mph to 18 mph) because some vehicle manufacturers may need to deploy both stages of a dual stage inflator in crashes with delta V's just over 32 km/h (20 mph), and because of the ''gray zone'' where it is uncertain whether one or both stages may deploy. We are also proposing to specify only a rigid barrier test for purposes of determining what inflation level would deploy in such crashes. To the extent that higher inflation level air bag deployments do not occur in rigid barrier tests at speeds up to 29 km/h (18 mph), we do not believe that those higher inflation level air bag deployments would occur in offset frontal deformable barrier tests or pole crashes at the same speed.

As noted earlier, we have tested six MY 1999 vehicles to the proposed out-of-position tests using 6-year-old child dummies. Only one vehicle, the MY 1999 Acura RL with a dual stage inflator, met all the proposed injury criteria performance limits for the 6-year-old child dummy in both Position 1 and Position 2 tests. This was the only one of the six vehicles with a dual stage inflator. Only the first stage was fired in the tests. This test illustrates the potential of dual stage inflators to meet the proposed out-of-position requirements using 3-year-old and 6-year-old child dummies.

Elimination of option for full scale dynamic out-of-position test requirements, which include pre-impact braking as part of the test procedure. In the NPRM, we included an option under which a vehicle would be required to meet injury criteria in a rigid barrier crash test that included pre-impact braking as part of the test procedure, using unrestrained 3-year-old or 6-year-old child dummies. We have decided to drop this option.

As discussed in the NPRM, this was a new test and there were many uncertainties. After considering the comments, we have decided to drop this option at this time. We were persuaded by the commenters that significant additional development would be needed in the proposed test procedure to make it appropriate for a Federal motor vehicle safety standard. Moreover, we do not believe that such development could be completed in a timely manner for this rulemaking. We also believe the other options address the various types of technologies under development, and that this one is not necessary. However, as noted before, a manufacturer petitioning for a test procedure for dynamic automatic suppression systems could suggest a procedure using a full scale dynamic barrier test with pre-crash braking.

c. Safety of Small Teenage and Adult Drivers.

Out-of-position drivers are at risk from air bags if they are extremely close

to the air bag at time of deployment. While any driver could potentially become out of position, small-statured drivers are more likely to become out of position because they sit closer to the steering wheel than larger drivers.

The NPRM, in order to address the risks air bags pose to out-of-position drivers, we proposed requirements using 5th percentile adult female dummies. We proposed three alternative test requirements, the selection of which would be at the option of the manufacturer.

The manufacturer options proposed in the NPRM were similar to those using 3-year-old and 6-year-old child dummies, with one significant exception. Since air bags provide safety benefits to small-statured drivers, it is not appropriate to permit manufacturers to suppress air bag deployment under all conditions in the presence of such occupants. Therefore, this type of suppression feature would not be permitted in tests with 5th percentile adult female dummies.

The three manufacturer options proposed in the NPRM were: (1) test requirements for an air bag suppression feature that suppresses the driver air bag when the driver is out of position, (2) test requirements for low risk deployment involving deployment of the air bag in the presence of out-of-position 5th percentile adult female dummies, and (3) full scale dynamic out-of-position test requirements, which include pre-impact braking as part of the test procedure.

For our SNPRM, we have made a number of changes similar to those discussed above with respect to three-year-old and six-year-old children, and for the same reasons. Our proposal for test requirements for low risk deployment involving deployment of the air bag in the presence of out-of-position 5th percentile adult female dummies is largely unchanged, although we have made the same change concerning level of inflation (i.e., levels that could deploy in a rigid barrier crash of up to 29 km/h (18 mph)) for which the test is conducted as discussed above with respect to child dummies. Our proposal for test requirements for an air bag suppression feature that suppresses the driver air bag when the driver is out of position has been replaced with one specifying a procedure by which manufacturers can petition for a test procedure to be added to Standard No. 208. Finally, we have dropped our proposal for full scale dynamic out-of-position test requirements.

While we have carefully considered GM's suggestion that we add out-of-position tests for adult passengers, we have decided not to make such a proposal at this time. Air bag risks to adult passengers are relatively low. Air bags do not pose the same risks for adult passengers as adult drivers and child passengers. Risks are higher for adult drivers because small-statured adults may need to sit relatively close to the air bag in order to drive. However, small-statured adults do not need to sit close to the passenger air bag. Young children are at special risk from air bags because, when unbelted or improperly belted, they are easily propelled against the air bag module during pre-crash braking.

C. Injury Criteria

In the NPRM, we proposed injury criteria and performance limits for each size dummy. We placed in the public docket a technical paper which explained the basis for each of the proposed injury criteria, and for the proposed performance limits.

Standard No. 208 currently specifies five injury criteria for the Hybrid III 50th percentile adult male dummy in barrier crash tests: (1) dummy containment—all portions of the dummy must be contained in the vehicle passenger compartment throughout the test, (2) HIC (Head Injury Criterion) must not exceed 1,000, evaluated over a 36 millisecond (msec) duration (3) chest acceleration must not exceed 60 g's, (4) chest deflection must not exceed 76 mm (3 inches), and (5) upper leg forces must not exceed 10 kilonewtons (kN) (2,250 pounds).

Under the NPRM, these and certain additional injury criteria would generally have been applied to all of the dummies covered by the proposal. However, the criteria would be adjusted to maintain consistency with respect to the injury risks faced by different size occupants.

For some types of injuries, we proposed alternative injury criteria. For chest injury, we proposed two alternatives: a new criterion, Combined Thoracic Index (CTI), which we had recently developed, or separate limits on chest acceleration and chest deflection. We also proposed two alternatives for neck injury criteria: an improved neck injury criterion, called Nij, or separate limits on flexion, extension, tension, compression and shear.

For this SNPRM, we have reviewed all relevant comments on the NPRM as well as comments and documents submitted by biomechanics specialists at NHTSA-sponsored public meetings. Combining this new information with our previous analyses, we are proposing, in a number of instances, modified injury criteria and performance limits.

A general discussion of the proposed injury criteria and performance limits is presented below. A detailed technical explanation is provided in a technical paper which is being placed in the public docket. The title of the paper is: ''Development of Improved Injury Criteria for the Assessment of Advanced Automotive Restraints Systems—II.''

1. Head Injury Criteria

As discussed in the technical report which accompanied the September 1998 NPRM, titled ''Development of Improved Injury Criteria for the Assessment of Advanced Automotive Restraint Systems,'' limits for the head injury criterion (HIC), evaluated over a 36 millisecond time interval, were proposed for the 50th percentile adult male, 5th percentile adult female, 6 year-old child, 3 year-old child and 12-month-old infant dummies.

Due to uncertainties regarding head injuries for children, we had investigated various scaling methods for developing HIC performance limits for the various size test dummies. The HIC limits proposed in the NPRM reflected a methodology that included both geometrical and material property scaling using the properties of the cranial sutures. This method was based on the assumption that the pediatric skull deformation is controlled by properties of the cranial sutures, rather than the skull bones.

Comments received in response to the NPRM and at a public meeting held on April 20, 1999 focused primarily on two issues: (1) the time duration used for the computation of HIC and (2) the scaling of HIC for the child dummies. In general, commenters urged that more conservative values for HIC should be adopted for the child dummies and especially for the 12-month-old CRABI infant dummy. Commenters cited differences in structure between the compliant infant skull with soft cranial sutures and the adult skull in addition to the uncertain tolerances of the infant's brain.

AAMA recommended that the duration for the HIC computations be limited to 15 milliseconds with a limit of 700 for the 50th percentile adult male dummy, which is consistent with Canadian Motor Vehicle Safety Standard No. 208. By way of comparison, Standard No. 208 currently specifies, for that dummy, HIC computed over 36 milliseconds but with a limit of 1000.

The basis for AAMA's recommended 15 millisecond duration was that, in the original biomechanical skull fracture

data from which HIC was derived, no specimen experienced a skull fracture and/or brain damage with a HIC duration greater than 13 milliseconds. AAMA also argued that HIC 36 overestimates the risk of injury for long-duration head impacts with air bags. That organization cited a study where human volunteers who were restrained by air bags experienced HIC 36 greater than 1000 and did not experience brain injury or skull fracture.

We note that NHTSA has previously been asked to limit the HIC duration to 15 or 17 milliseconds. In its earliest form, the HIC was calculated over the whole acceleration-time pulse duration without an imposed limiting time interval. Essentially, HIC values were calculated for all possible time increments starting with one millisecond and ending with the whole duration of the pulse including every time duration increment in between. The maximum value from this entire set was the HIC value used.

On October 17, 1986, we issued a final rule adopting a maximum time interval of 36 milliseconds for calculating HIC. 51 FR 37028. We recognized that available human volunteer tests demonstrated that the probability of injury in long duration events was low, but reasoned that the agency should take a cautious approach and not significantly change the expected pass/fail ratios that the then unlimited HIC provided. Evaluation of a 17 millisecond limit against various test sets from NCAP and FMVSS 208 testing available at the time was found to reduce the failure rate from 46% to 35%. This fact led us to reject a request to reduce the HIC time interval to 15 to 17 milliseconds without a commensurate reduction of the maximum HIC value.

However, to somewhat accommodate to the apparent over-stringency of the limited HIC for long duration events, we did limit the maximum time interval to 36 milliseconds. This allowed the maximum average long duration acceleration to rise to a limit of 60 g's.

Today's proposal for reducing the 36 millisecond HIC time to 15 milliseconds differs from what we previously considered because it is accompanied by a reduction in the maximum allowed value of HIC from 1000 to 700. Based on an analysis of 295 recent NCAP tests, we have determined that the stringency of HIC15/700 and HIC36/1000 appear to be equivalent for long duration pulses. This is because while the HIC 15 produces a lower numerical value for long duration events, its lower failure threshold, 700, compensates for this reduction. This is borne out by the fact that of the 295 NCAP tests examined, 260 passed and 18 failed both criteria, 10 tests that failed HIC 15 passed HIC 36, while 7 tests that failed HIC 36, passed HIC 15. We also note that for pulse durations shorter than approximately 25 milliseconds, the HIC 15=700 requirement is more stringent than the HIC 36=1000 requirement. We believe this increased stringency would provide a desirable added measure of safety for the highly scaled, short duration HIC limits proposed for evaluating those impact events where children and small statured adults are involved. Thus, we are proposing to employ a 15 millisecond time interval whenever calculating the HIC function and limiting the maximum response of the adult male to 700 and limiting the response of the smaller dummies to suitably scaled maximums.

AAMA recommended employing a scaling technique for HIC15 that accounts for the differences in geometry and failure properties between children and adults. Several other researchers have also recommended, using similar techniques and assumptions, scaled performance limits for HIC15. We have also performed additional analysis using finite element modeling to develop yet another approach to scaling HIC. Recognizing that all of these techniques and the scaling relationships they produce are approximate, we have combined these results to develop modified, conservative, scaled HIC performance limits for the various child dummies.

2. Neck Injury Criteria

In the NPRM, we proposed two alternatives: (1) The Nij neck injury criterion, for which we solicited comments on performance limits of Nij=1 and Nij=1.4, and (2) separate limits on neck flexion, extension, tension, compression, and shear. AAMA and others commented that the Nij concept makes biomechanical sense. However, they recommended the use of individual limits for neck forces and moments. Other commenters stated that Nij=1 was more appropriate than Nij=1.4 for affording adequate protection to children. Some commenters suggested even lower limits for neck forces and moments for the child dummies.

After considering the comments, we continue to believe that the superposition of loads and moments performed in the Nij calculation is the most appropriate metric to quantify neck injury risk. Therefore, in the SNPRM, we are proposing Nij as the neck injury criterion. However, in light of the comments, we have made some modifications to the proposed Nij calculations.

We originally developed the Nij criterion using data from matched air bag exposure tests, using anesthetized pigs and the 3-year-old child dummy, conducted by Mertz *et al.* and Prasad *et al.* For the modified Nij, we decided to use certain assumptions made by Mertz (SAE paper No. 973318) in combining the measured tension force and extension moment. Re-analysis of the data after applying these assumptions results in new Nij tension and extension intercept values for the 3-year-old dummy with Nij=1. The resulting Nij=1 threshold limit represents a 22% probability of Abbreviated Injury Scale (AIS) ≥3 neck injury using logistic regression. For this SNPRM, we are also using a scaling procedure recommended by AAMA which takes into account the failure strength of ligaments. The details of the development of the revised Nij neck injury criteria and the revised Nij critical values for all dummy sizes are provided in the technical paper cited above.

As noted above, we requested comments on performance limits of Nij=1 and Nij=1.4. After considering the comments, the available biomechanical data, and testing which indicates that the more conservative value of 1.0 can be met in current production vehicles, we are proposing a limit of 1.0.

3. Thoracic Injury Criteria

For chest injury, we proposed two alternatives in the NPRM: (1) A newly developed injury criterion called the Combined Thoracic Index (CTI), or (2) individual limits on chest acceleration and chest deflection. The CTI is a formula that linearly combines measured chest deflection and acceleration levels into a single value which is then limited to a maximum value. It was derived from our extensive cadaver test data base and was demonstrated to have the best injury predictive capability of all measures examined. The second alternative consisted of individual limits for chest acceleration and deflection, the approach currently used in Standard No. 208. The standard specifies, for the 50th percentile adult male dummy, a 60 g acceleration limit and a 76 mm (3 inch) deflection limit.

Many commenters on the NPRM recommended maintaining individual limits for acceleration and deflection. AAMA recommended that the acceleration limit be maintained at 60 g but suggested that the deflection limit be reduced from 76 mm to 64 mm (3 inches to 2.5 inches). Our analysis indicates that the recommended AAMA

limits, when both at their maximum, would be at a CTI level of approximately 1.2. However, because the CTI would allow greater accelerations with lesser deflection and greater deflection with lesser accelerations at allowable operational points, we believe the AAMA-recommended two independent level criterion would be somewhat more stringent overall. Therefore, we believe the CTI limit proposed in the NPRM and AAMA's recommended individual limits are largely equivalent and that there is a slight safety benefit to adopting the individual limits of 60 g's of acceleration and 64 mm (2.5 inches) of chest deflection for the 50th percentile adult male dummy. For the SNPRM, we are proposing individual limits as recommended by AAMA.

To obtain equivalent performance limits for the other size dummies, i.e., the 5th percentile adult female, 3- and 6-year-old child, and the 12-month-old infant, the mid-size male dummy limits were scaled considering both geometric and material differences.

4. Lower Extremity Injury Criteria

Standard No. 208 currently specifies an axial load limit of 10kN (2250 pounds) for the 50th percentile adult male dummy, as measured by a load cell at the location of the mid-shaft of the femur. The purpose of the axial load limit on the femur is to reduce the probability of fracture of the femur and also surrounding structures in the thigh, such as the patella and pelvis. In the NPRM, we proposed to maintain the current limit of 10 kN (2,250 pounds) for the 50th percentile adult male and proposed a new scaled down limit of 6.8 kN (1,529 pounds) for the 5th percentile adult female to account for the smaller bone size for all proposed test configurations.

There was general support by commenters for including the femoral compressive loads for the 5th percentile adult female dummy specified in the NPRM in addition to maintaining the currently specified value for the 50th percentile adult male dummy. In the SNPRM, we are proposing the same axial femur limits as the NPRM: 10 kN (2,250 pounds) for the 50th percentile adult male and 6.8 kN (1,529 pounds) for the 5th percentile adult female.

AAMA recommended adding femoral compressive load limits for the 6-year-old child dummy. Although we agree with AAMA that femoral compressive load limits for the 6-year-old child dummy are important to consider, the NPRM did not specify such limits because none of the proposed testing configurations imposed substantial loading on the lower extremities. We are therefore not proposing femoral compressive load limits in the SNPRM.

The National Transportation Safety Board (NTSB) recommended that tolerance levels of lower extremities be further investigated and validated. NTSB also suggested that we consider dummies such as an advanced lower extremity dummy for future incorporation into the standards. We are continuing the development of an advanced lower extremity test device, and continue to sponsor experimental impact injury research to determine the mechanisms and tolerances of the lower extremities, including the foot, ankle and leg. When this effort is complete, we will consider incorporating additional injury criteria into our safety standards.

The assessment of lower extremity injury potential in high speed offset deformable crash tests is discussed in a separate section later in this notice.

5. Other Criteria

As we consider adding new injury criteria or modifying existing injury criteria for Standard No. 208, it is logical to consider whether the injury criteria and performance limits we are considering would be appropriate for other safety standards, including Standards No. 201 and 213, particularly if new child dummies were incorporated into Standard No. 213. While we are not proposing to amend those standards in this rulemaking, we request commenters to address whether the injury criteria and performance limits proposed in this SNPRM would be appropriate for those standards, and why or why not.

D. Lead Time and Proposed Effective Date

TEA 21 specifies that the final rule on advanced air bags must become effective in phases as rapidly as practicable beginning not earlier than September 1, 2002, and no sooner than 30 months after the issuance of the final rule, but not later than September 1, 2003. Except as noted below, the phase-in of the required amendments must be completed by September 1, 2005. If the phase-in of the rule does not begin until September 1, 2003, we are authorized to delay the completion of the phase-in until September 1, 2006. As also noted below, other amendments may be phased-in later.

As discussed in the NPRM, we have sought information by a variety of means to help us determine when the vehicle manufacturers can provide advanced air bag systems to consumers. This is known as lead time. Vehicle lead time is a complex issue, especially when it involves technology and designs that are still under development.

In the NPRM, taking account of all available information, including but not limited to the wide variety of available technologies that can be used to improve air bags (and thereby meet the proposed requirements) and information concerning where the different suppliers and vehicle manufacturers were in developing and implementing available technologies, we proposed to phase in the new requirements in accordance with the following implementation schedule:

25 percent of each manufacturer's light vehicles manufactured during the production year beginning September 1, 2002;

40 percent of each manufacturer's light vehicles manufactured during the production year beginning September 1, 2003;

70 percent of each manufacturer's light vehicles manufactured during the production year beginning September 1, 2004;

All vehicles manufactured on or after September 1, 2005.

We proposed a separate alternative to address the special problems faced by limited line manufacturers in complying with phase-ins. We noted that a phase-in generally permits vehicle manufacturers flexibility with respect to which vehicles they choose to initially redesign to comply with new requirements. However, if a manufacturer produces a very limited number of lines, *e.g.*, one or two, a phase-in would not provide such flexibility.

We accordingly proposed to permit manufacturers which produce two or fewer carlines the option of omitting the first year of the phase-in if they achieve full compliance effective September 1, 2003. We proposed to limit this alternative to manufacturers which produce two or fewer carlines in light of the statutory requirement concerning when the phase-in is to begin.

As with previous phase-ins, we proposed to exclude vehicles manufactured in two or more stages and altered vehicles from the phase-in requirements. These vehicles would be subject to the advanced air bag requirements effective September 1, 2005. They would, of course, be subject to Standard No. 208's existing requirements before and throughout the phase-in.

Also as with previous phase-ins, we proposed amendments to 49 CFR Part 585 to establish reporting requirements to accompany the phase-in.

A number of commenters raised issues concerning the proposed phase-in. We will discuss the issues separately for the large vehicle manufacturers and for small manufacturers and multi-stage manufacturers.

1. Large Manufacturers

Honda stated that it would be virtually impossible to comply with the proposed phase-in. It cited the number of tests, the need for new testing facilities and personnel, and the lack of completed dummies. That company stated that assuming the final rule was reasonable and practical, it needs at least three years leadtime after the final rule and before the start of the phase-in, and a five-year phase-in. Volvo also stated that it needs three years after the final rule.

We note that, for this particular rulemaking, we have limited discretion as to how much lead time we can provide. Under the statutory requirements discussed earlier in this section, assuming that the final rule is issued on March 1, 2000, it must become effective in phases beginning not earlier than September 1, 2002 (which is 30 months after March 1, 2000) and not later than September 1, 2003. Moreover, there is a limit as to how long the phase-in may be. If the phase-in begins on September 1, 2002, the required amendments must be fully effective by September 1, 2005. Only if the phase-in begins on September 1, 2003 may the agency delay making the required amendments fully effective until September 1, 2006.

Under the statute, the agency is therefore precluded from providing the five-year phase-in requested by Honda. Whether the phase-in begins on September 1, 2002 or September 1, 2003, the required amendments must be fully effective not more than three years later.

For this SNPRM, we are proposing the same phase-in for large manufacturers as in the NPRM. The proposed date for the start of the phase-in, September 1, 2002, would be 30 months after a final rule that was issued on March 1, 2000. This proposed date reflects the seriousness of the safety problem being addressed and the statutory requirement that the final rule become effective as rapidly as possible. Honda and Volvo did not demonstrate that this date cannot be met. We note that, as discussed earlier, several manufacturers will be introducing air bags with many of the features needed to comply with the proposed requirements for advanced air bags during MY 2000.

Comments are requested on phase-in schedules and percentages other than the 25%–40%–70%–100% schedule proposed in this document. One example is a 40%–70%–100% schedule beginning one year later than the proposed schedule, but ending at the same time. This alternative is like the proposed one, except that the first year of the proposed phase-in is eliminated. This alternative schedule would offer additional leadtime at the beginning of the phase-in, while not compromising the final effective date for all new vehicles. With the availability of credits for early compliance, a manufacturer also would have additional time to develop and produce early-complying vehicles to meet the initial phase-in percentages.

We recognize that simultaneous implementation of these various proposals will necessitate considerable care and effort by the vehicle manufacturers. In a normal rulemaking, we would have broad discretion to adjust the implementation schedule to facilitate compliance. In this rulemaking, our discretion to set the schedule for implementing the amendments required by TEA 21 is limited by that Act. As indicated above, our final rule must not provide that the phasing-in of those amendments begins any later than September 1, 2003, or ends any later than September 1, 2006.

However, above and beyond our discretion to adjust the amendments for reasons of practicability, we also have some discretion to make temporary adjustments in them if, in our judgment, such adjustments are necessary or prudent to promote the smooth and effective implementation of the goals of TEA 21 through the introduction of advanced air bags. As discussed above, the final rule could temporarily reduce the injury criteria or test speeds during the TEA 21 phase-in and then terminate those reductions at the end or after the end of that phase-in.

2. Small Manufacturers and Multi-Stage Manufacturers

The Coalition of Small Volume Automobile Manufacturers (COSVAM) stated that the extra year of leadtime we proposed for small volume manufacturers is insufficient to meet its members' needs. That organization requested that small volume manufacturers be treated the same as final stage manufacturers, i.e., not be required to meet the new requirements for advanced air bags until the end of the phase-in.

COSVAM stated that small volume manufacturers need until the end of the phase-in because they cannot obtain new technology at the same time it is made available to large manufacturers, because they have difficulty getting suppliers to sell to them at all, and because some small volume manufacturers source from large manufacturers and may source parts from a model which will not comply until the end of the phase-in. AIAM stated that the law does not allow a reasonable timetable for phase-in even for large volume manufacturers, which will be given access to technology first, and that there is certainly no evidence that small volume manufacturers have the ability to comply in the second year of the phase-in.

After considering the comments, we have decided to propose that small volume manufacturers be permitted to wait until the end of the phase-in to meet the new requirements. We note that we are proposing to treat small volume manufacturers differently than in previous rulemakings involving phase-ins because of two factors.

The first factor is the complexity of the new requirements. Even the more streamlined set of requirements proposed in this SNPRM will require significant design changes and significant new testing for all cars and light trucks. The second factor is the relatively short leadtime before the phase-in is scheduled to begin.

The proposed special treatment of small volume manufacturers would be in addition to our proposal to permit limited line manufacturers to wait until the second year of the phase-in to begin compliance if they then meet the new requirements for all of their vehicles.

Because our new proposal for small volume manufacturers will have the effect of permitting them to avoid the phase-in entirely, it is critical to establish eligibility criteria that are as narrow as possible. Accordingly, we are proposing to limit this phase-in option to manufacturers which produce fewer than 5,000 vehicles per year worldwide.

We specifically request comments on this proposed limitation. We note that COSVAM indicated that all of its members produce fewer than 5,000 vehicles per year worldwide. However, that organization requested that we make this phase-in option available to all manufacturers which produce fewer than 10,000 vehicles per year worldwide. COSVAM did not explain why it believes the limitation should be set at this level.

Several commenters, including the National Truck Equipment Association (NTEA) and the Recreation Vehicle Industry Association (RVIA), requested that multi-stage manufacturers and alterers be given a one-year extension after the end of the phase-in for large manufacturers. NTEA stated that given

the level of research and testing likely to be required by the final rule, chassis manufacturers will be hard pressed to complete work on time for their standard lineup of vehicles let alone those chassis to be used by multi-stage industry. That organization stated that an extra year would give chassis manufacturers more time to generate compliance information needed for commercial vehicles produced in two or more stages.

RVIA stated that guidance from incomplete vehicle manufacturers is generally not available until at or very near the startup of new or updated model production and that, therefore, final stage manufacturers will need at least one additional year to meet the new requirements.

While we have carefully considered the comments, we are not proposing an additional extension for final stage manufacturers, beyond the end of the phase-in. We note that, as discussed above, we have limited discretion as to how much leadtime we can provide. Under TEA 21, if the phase-in begins on September 1, 2002, the final rule must become fully effective by September 1, 2005. There are no exceptions for multi-stage manufacturers.

Moreover, we believe this is an issue which can be handled by the industry. Final stage manufacturers are used to completing vehicles within limitations identified by chassis manufacturers so that they can certify their vehicles with limited or no additional testing. We do believe it is important that the chassis manufacturers communicate with their final stage manufacturer customers as soon as possible concerning any new limitations that may be made as a result of the advanced air bag requirements. The chassis manufacturers should be able to identify the type and likely scope of any such new limitations well before the end of the phase-in. Even now, the chassis manufacturers should be able to identify the types of new limitations that are likely, given the proposed requirements and planned design changes. We would encourage chassis manufacturers and final stage manufacturers to begin discussions on these issues now.

Atwood, a supplier of seating components, asked whether a generic type test could be developed to eliminate testing the entire family of test dummies. That company stated that it runs sled tests consisting of baseline tests of OE components and additional tests of its components. We do not believe it would be possible to develop a generic type test, for purposes of Standard No. 208, that could eliminate tests incorporating the family of dummies. Different size human beings respond differently in crashes, and it is therefore necessary to use different size dummies to test for the injury risks posed to occupants of varying sizes. Also, if a weight/pattern sensor in a seat is designed to suppress air bags for children and not for adults, it is necessary to test them both for children and adults.

E. Availability of Original Equipment and Retrofit Manual On-Off Switches

As discussed in the NPRM, Standard No. 208 currently includes a temporary provision permitting manufacturers to provide manual on-off switches for air bags in vehicles without rear seats or with rear seats too small to accommodate a RFCSS. This provision is scheduled to expire on September 1, 2000. However, in the NPRM, we proposed to extend this provision so that it phases out as the new requirements for advanced air bags are phased in. During the phase-in, OE manual on-off switches would not be available for vehicles certified to the upgraded requirements, but would be available for other vehicles under the same conditions as they are currently available.

Also as discussed in the NPRM, on November 11, 1997, we published in the **Federal Register** (62 FR 62406) a final rule exempting, under certain conditions, motor vehicle dealers and repair businesses from the ''make inoperative'' prohibition in 49 U.S.C. 30122 by allowing them to install retrofit manual on-off switches for air bags in vehicles owned by people whose request for a switch is authorized by NHTSA. The final rule is set forth as Part 595, *Retrofit On-Off Switches for Air Bags.*

The purpose of the exemption was to preserve the benefits of air bags while reducing the risk of serious or fatal injury that current air bags pose to identifiable groups of people. In issuing that final rule, we explained that although vehicle manufacturers are beginning to replace current air bags with new air bags having some advanced attributes, i.e., attributes that will automatically minimize or avoid the risks created by current air bags, an interim solution was needed for those groups of people at risk from current air bags in existing vehicles.

In the NPRM, we proposed to phase out the availability of this exemption in the same manner as the temporary provision permitting manufacturers to provide manual on-off switches for air bags in vehicles without rear seats or with rear seats too small to accommodate a RFCSS. Under the proposal, retrofit on-off switches would not be available for vehicles certified to the new advanced air bag requirements.

We requested comments, however, on whether retrofit on-off switches should continue to be available under eligibility criteria revised to be appropriately reflective of the capabilities of advanced air bag technology. We observed that if such switches were to be available at all, the criteria would need to be much narrower since the risks would be smaller than they are currently. For example, the passenger air bag in a vehicle with a weight sensor would not deploy at all in the presence of young children. Therefore, there would be no safety reason to permit a retrofit on-off switch because of a need for a young child to ride in the front seat.

Only a few commenters addressed the issue of OE and retrofit on-off switches. Two basic positions were given: either allow on-off switches regardless of the existence of advanced air bag technology, or phase-out the switches as proposed in the NPRM. The central issue to each position is whether the advanced air bag systems will be sufficiently reliable to obviate the need for a manual switch.

While we believe that reliable systems can be developed in a timely manner, thus removing the need for an on-off switch, we are concerned that those individuals who are currently at risk from air bags may lack confidence in the new systems, particularly when they are first introduced. However, we believe this problem will diminish during the course of the phase-in, as consumers hear about, and become familiar with, advanced air bags.

Accordingly, in this SNPRM, we are proposing to allow both OE switches and retrofit switches to be installed under the same conditions that currently govern such installation in all vehicles produced prior to September 1, 2005, the date by which all vehicles must have an advanced air bag system. We believe that by that time consumer confidence in the advanced systems will be sufficiently strong to remove any desire for a manual switch in vehicles produced with an advanced air bag.

F. Warning Labels and Consumer Information

As discussed in the NPRM, on November 27, 1996, we published in the **Federal Register** (61 FR 60206) a final rule which, among other things, amended Standard No. 208 to require improved labeling on new vehicles to better ensure that drivers and other occupants are aware of the dangers posed by passenger air bags to children. These warning label requirements did

not apply to vehicles with passenger air bags meeting specified criteria.

In the NPRM, we similarly proposed that vehicles certified to the new advanced air bag requirements would not be subject to those warning label requirements. We requested comments, however, concerning whether any of the existing labeling requirements should be retained for vehicles with advanced air bags and/or whether any other labeling requirements should be applied to these vehicles.

Thirteen commenters addressed the issue of retaining the existing air bag warning labels, including manufacturers, manufacturer associations, and consumer groups. At least until the reliability of newer air bag designs are proven by experience, all of the commenters supported the retention of a warning regarding the importance of children in rear seats. Most supported the inclusion of a seat belt use warning. Some commenters also addressed the issue of requiring manufacturers to provide information about which vehicles meet the new requirements. Consumer groups strongly supported such a requirement, while manufacturers and some others believed such a requirement was not necessary since the information would be provided voluntarily.

Given the importance of the safety information at issue and in light of the widespread support for continued labeling, NHTSA is proposing a replacement for the permanent sun visor label for vehicles that meet the requirements of this proposed rule. The label would contain statements regarding belt use and seating children in the rear seat. These statements are good general advice; however, NHTSA requests comments on any currently known risks which would require more specific statements.

The word ''CAUTION'' would be substituted for the word ''WARNING'' in the heading of the label. According to ANSI Z535.2, ''WARNING indicates a potentially hazardous situation which, if not avoided, could result in death or serious injury.'' ''CAUTION indicates a potentially hazardous situation which, if not avoided, may result in minor or moderate injury. It may also be used to alert against unsafe practices.'' Since there are currently no known specific risks associated with advanced air bags, ''Caution'' appears to be more appropriate as an alert against unsafe practices.

We believe that the existing graphic is inappropriate for air bags meeting these requirements, as this risk is specifically tested for in the new requirements. Therefore, a new graphic has been developed which shows a cut-away side view of a vehicle with a belted driver and a child in a child seat in the rear.

In addition, we are proposing a new temporary label that states that the vehicle meets the new requirements for advanced air bags. This label would replace the existing temporary label and include statements regarding seat belt use and children in rear seats. We request comment on how and where additional information regarding how the vehicle complies and other information about the new air bags should be made available. The options under consideration include requiring the information on the temporary label, in the owners manual, or in a separate required informational brochure.

We are proposing to retain all other existing label requirements regarding location, size, etc. for the new labels. Also, as with the current labels, manufacturers may provide translations of the required English language message as long as all the requirements for the English label are met, including size.[25]

Consistent with our proposal to require labels for vehicles with advanced air bags, we are proposing to drop the current definition of ''smart passenger air bags'' contained in S4.5.5 and the existing option to remove warning labels in vehicles with air bags that meet that definition (S4.5.1). The term ''smart air bag'' is simply an older term for advanced air bag. For the reasons discussed above, we believe that some warning label is needed for vehicles with advanced air bags. We also note that no manufacturer has taken advantage of the existing compliance option, and we believe that they will not do so in the future. Manufacturers have urged us to develop a single warning label that would apply to vehicles with advanced air bags. Thus, even if they do develop a system that meets the existing definition of smart passenger air bags, we do not think they would decide to produce vehicles without warning labels.

In order to provide consumers with adequate information about their occupant restraint system, a manufacturer would also need to provide a written discussion of the vehicle's advanced passenger air bag system. This discussion would probably be included in the vehicle owner's manual, although we are interested in knowing whether it would be desirable to have this information located elsewhere. The discussion would need to explain the proper functioning of the advanced passenger air bag system and provide a summary of the actions that may affect the proper functioning of the system.

We anticipate that several topics would need to be addressed. The information provided might need to include discussions of the following topics, as appropriate:

- A presentation and explanation of the main components of the advanced passenger air bag system.
- An explanation of how the components function together as part of the advanced passenger air bag system.
- The basic requirements for proper operation, including an explanation of the occupant actions that may affect the proper functioning of the system.
- A complete description of any passenger air bag suppression system installed in the vehicle including a discussion of the suppression zone and a discussion of the telltale light on the instrument panel, explaining that the light is only illuminated when the advanced passenger air bag system is suppressed, is not illuminated when the advanced passenger air bag system is activated, and informing the vehicle owner of the method used to indicate that the air bag suppression system is not operating properly.
- An explanation of the interaction of the advanced passenger air bag system with other vehicle components, such as seat belts, seats or other components.
- A summary of the expected outcomes when child restraint systems, children and small teenagers or adults are both properly and improperly positioned in the vehicle, including cautionary advice against improper placement of child restraint systems.
- Tips and guidelines to improve consumer understanding of the proper use of the advanced passenger air bag system.
- Information on how to contact the vehicle manufacturer concerning modifications for persons with disabilities that may affect the advanced air bag system.

G. Miscellaneous Issues

1. Selection of Child Restraints

As discussed earlier in this notice, in order to reduce testing costs, we are proposing to require manufacturers to assure compliance with tests to minimize the risks from air bags to infants and young children using any child restraint on a specified list of representative child restraints. In developing the proposed list of representative child restraints, we attempted to select seats that are

[25] For further information about our policies in this area, see 59 FR 11200, 11201–202, March 10, 1994.

produced by various manufacturers while limiting the overall number of restraints. The list was derived from a much more comprehensive list of restraints to be purchased by NHTSA's Office of Vehicle Safety Compliance for use in the agency's FY 2000 compliance test program.

We believe the more comprehensive list represents the majority of child restraints currently on the market. That list was reduced, in part, by eliminating similar restraint systems, *e.g.,* restraints that are sold as different models but which we believe provide the same footprint. For example, a particular restraint may come with both a T-shield and a five-point harness system. We do not believe it would be necessary to test a suppression system using both restraints, since the difference between the two models is the type of system used to restrain the child and not the basic design of the seat. We further shortened the comprehensive list by eliminating restraints produced by a manufacturer who was already represented at least once within the particular class of child restraints. Other restraints, like the car bed, are the only one of their type and were placed on the list for that reason.

We have tentatively decided to add the list of child restraints as an appendix to the proposed regulatory text. However, we plan to propose updating the list from time to time (with appropriate lead time). Of particular concern is the introduction of child restraints that will be developed to comply with the agency's recently issued rule on uniform child restraint anchorages.

2. Due Care Provision

Since March 1986, Standard No. 208 has included as part of its various crash test requirements a provision stating that ''a vehicle shall not be deemed to be in noncompliance with this standard if its manufacturer establishes that it did not have reason to know in the exercise of due care that such vehicle is not in conformity with the requirement of this standard.'' In adding this provision, the agency cited the complexity of the Standard No. 208 test and stated that, because of this complexity, it believed that manufacturers needed assurance from the agency that, if they have made a good faith effort in designing their vehicles and have instituted adequate quality control measures, they will not face the recall of their vehicles because of an isolated apparent failure to meet one of the injury criteria.

In the September 1998 NPRM, we did not propose to extend the ''due care provision'' to the various new proposed test requirements. Vehicle manufacturers commented that there may be greater variability associated with the new proposed test requirements than the old ones and that the ''due care provision'' is needed more than ever.

In addressing this issue, we note that the ''due care provision'' is unique to Standard No. 208. The provision was initially adopted as part of the 1984 rulemaking requiring automatic protection, and was then extended as the various crash test requirements were extended. We did not, however, adopt a ''due care provision'' for the subsequent crash or other dynamic tests in other standards, such as Standards No. 201 or 214.

As a general matter, we disfavor including a ''due care provision'' in the Federal motor vehicle safety standards. There are several reasons for this.

First, the inclusion of such a provision in a safety standard does not fit very well with the overall statutory scheme. Safety standards are required to be objective. To the extent the question of whether a manufacturer exercised due care becomes a compliance issue, a measure of subjectivity is introduced into the standard. Also, the Safety Act itself includes a different ''due care provision.'' While the statutory due care defense can relieve a manufacturer of paying civil penalties for failure to comply with a safety standard, it does not relieve the manufacturer of recalling non-complying vehicles.

Second, we do not believe there is an intrinsic need for a ''due care provision.'' Nothing in the history of Standard No. 208 compliance activities since 1984 indicates there is a need for such a provision. We also note, with respect to enforcement, that we have consistently taken the position that we will not require a manufacturer to recall large numbers of vehicles merely because of an isolated test failure, where there is evidence that other tested units have met the standard's performance requirements and there is no indication of the absence of adequate quality control procedures.

Notwithstanding the fact that we generally disfavor including a ''due care provision'' in a safety standard, we also recognize that Standard No. 208 has included such a provision as part of its crash test requirements for the past 13 years. Recognizing that this rulemaking for advanced air bags will require manufacturers to certify their vehicles to a significantly greater number of test requirements in a limited amount of time, we do not believe that now is an appropriate time to delete this provision.

Accordingly, for this SNPRM, we are proposing to maintain the same ''due care provision'' for the new crash test requirements as for the existing ones. However, we are not proposing to apply the provision to test requirements that do not involve crashes, as these tests are not affected by the variability associated with dynamically induced dummy movement and/or vehicle deformation.

3. Selection of Options

In the NPRM, we proposed to require that where manufacturer options are specified, the manufacturer must select the option by the time it certifies the vehicle and may not thereafter select a different option for the vehicle. This would mean that failure to comply with the selected option would constitute a noncompliance with the standard (as well as a violation of the certification requirement), regardless of whether a vehicle complies with another option. We noted situations in the past where vehicle manufacturers have advised us that they had selected one compliance option, but then sought to change the option after being confronted with an apparent test failure.

Vehicle manufacturers objected to this proposed requirement. AAMA stated that the proposed requirement would not meet the need for motor vehicle safety, since both options meet the need for motor vehicle safety.

For this SNPRM, we are not changing this part of our proposal, except to add a provision clarifying that upon request, manufacturers will be required to advise the Office of Vehicle Safety Compliance (OVSC) of particular compliance options selected for a given vehicle or vehicle model. We note that this issue has arisen in the context of several recent and ongoing rulemakings, and we are continuing to review the various comments and other submissions from manufacturers concerning this issue.

4. Relationship of the Proposed New Injury Criteria to Existing Test Requirements

In this SNPRM, we are proposing a number of new and/or modified injury criteria and performance limits for vehicles certified to the requirements for advanced air bags. Some of these injury criteria and performance limits would apply to new tests, and some would apply to existing tests that are being retained in Standard No. 208.

We are not proposing to change the injury criteria for vehicles not certified to the requirements for advanced air bags. As a general matter, vehicles produced between the time the final rule becomes effective and the time the phase-in is complete will be required to

comply with and be certified to the current requirements and current injury criteria or to the requirements for advanced air bags and new injury criteria; there will be no opportunity to mix and match.

We believe it would be unnecessary and potentially counterproductive to apply the new injury criteria or performance limits to vehicles produced in the next several years which are not certified to all of the requirements for advanced air bags. It is our intention that the vehicle manufacturers focus their attention on designing vehicles that comply with the new requirements for advanced air bags, consistent with the phase-in period, rather than attempting in the short term to modify and/or recertify existing vehicles to meet new injury criteria.

We also do not believe it would be a good use of our resources to conduct the analyses that would be needed to reevaluate what injury criteria and limits should apply to what test requirements for vehicles not yet redesigned to meet the requirements for advanced air bags. We note that injury criteria cannot be viewed in isolation. They apply both in the context of individual tests and in the context of arrays of tests. If the tests are more (or less) severe, the appropriate criteria may be less (or more) severe. There may be no direct relationship between the two.

As a possible exception to requiring vehicles produced between the time the final rule becomes effective and the time the phase-in is complete to comply with and be certified to the current requirements and current injury criteria or to the requirements for advanced air bags and new injury criteria, we request comments on whether we should permit manufacturers to immediately certify their vehicles to whatever set of unbelted crash test requirements applicable to 50th percentile adult male dummies is adopted for the final rule, as an alternative to the currently available sled test or unbelted up-to-48 km/h (30 mph) rigid barrier test. As discussed earlier in this document, we believe the sled test has significant limitations as compared to a crash test. Therefore, to the extent vehicle manufacturers wished to immediately design and certify vehicles to whatever set of unbelted crash test requirements is included in the final rule, there could be safety benefits.

5. Time Parameters for Measuring Injury Criteria During Tests

We have decided to propose specific end points for measuring injury criteria in both crash tests and low-risk deployment tests in order to resolve any uncertainty on the part of vehicle manufacturers and NHTSA as to when the measured injury criteria are relevant.

In dynamic crash tests, we historically have not measured injury criteria more than 300 milliseconds after the vehicle impacts the barrier. In our experience, additional measurement is unnecessary. Accordingly, we are proposing a 300 millisecond time duration for the dynamic crash tests.

The low risk deployment tests, which do not involve a complete vehicle crash and are intended only to address the potential adverse effects of an air bag, would not require as long a period of time to measure potential injuries. Accordingly, we are proposing injury measurements up to 100 milliseconds after the air bag deploys.

Regardless of the time frame used to measure other injury criteria, all dummies would continue to be required to remain fully contained within the test vehicle until physically removed by a technician.

6. Cruise Controls

In the NPRM, we asked about possible requirements for turning the cruise controls off when the air bag deploys. We were concerned that the cruise control, if not deactivated, would continue to provide power to the vehicle. This could lead to a runaway condition. Responding auto manufacturers (DaimlerChrysler, General Motors, Ford, Isuzu and the AIAM) saw no justification in turning off the cruise controls when the air bag deploys. Several commenters (JCW Consulting and Parents for Safer Air Bags) supported a requirement for deactivating cruise controls during a crash.

We are concerned that cruise controls could create a safety problem if they continue to operate after air bag deployment. No manufacturer provided information that its vehicles would not continue to operate on cruise control after a crash for which the air bags deployed. Nor did any indicate that it would be impracticable, or even difficult, to implement an automatic air bag shut-off system. Accordingly, we have decided to propose that cruise controls be deactivated when any stage of an air bag system is deployed. We have included a brief procedure to test whether this requirement is met.

7. Rescue Operations

In the NPRM, we also raised the possibility of adding requirements to prevent air bag deployments during rescue operations following a crash. We are aware of scattered reports of air bag deployments that take place after rescue personnel or ''first responders'' begin rescue operations. Many of the responding auto manufacturers (DaimlerChrysler, General Motors, Ford, VW, Toyota and AIAM) saw no justification in going forward with rescue provisions, believing that deactivation time requirements may limit design freedom. However, General Motors pointed out that rescue personnel frequently work under conditions so adverse as to preclude easy ''look-up'' of the information they need to know about deactivation times for a given model and MY of vehicle in any published rescue guideline. The National Transportation Safety Board stated that some universal method of deactivation should be incorporated into air bags to neutralize any potential danger for rescuers.

We believe that a standardized air bag deactivation time would eliminate confusion and unnecessary delays during rescue work. As stated in our recent publication titled ''Rescue Procedures for Air Bag-equipped Vehicles,'' the air bags in most vehicles are deactivated within a minute or less after battery power is disconnected. We believe that deactivation times are generally decreasing and that a one minute ''keep alive'' period is adequate for deployment requirements. Accordingly, we are proposing to require that all air bags become deactivated after a maximum one-minute ''keep alive'' period has elapsed after the vehicle battery power is disconnected. Again, we have included a brief procedure to test whether this requirement is met.

8. Assessing Lower Extremity Injury Potential in Offset Deformable Crash Tests

In the discussion about possible adoption of a 48 to 56 km/h (30 to 35 mph) unbelted offset deformable barrier crash test, we note that the test would have greater potential to produce benefits related to injury from intrusion. This would include addressing injuries sustained by lower extremities, such as ankle/foot, tibia, knees, femurs, and the pelvis bone. This type of injury can result in life-long disability.

Crash data indicate a higher prevalence of lower extremity injuries in offset frontal collisions than in fully distributed frontal impacts. Lower extremity injuries occur at higher frequency at lower offset collision speeds than at comparable distributed collisions, particularly if floor pan intrusion is involved. Analysis of hospital data involving 42 front seat occupants who sustained below-the-

knee lower limb injuries in frontal crashes showed that the foot ankle-complex accounted for nearly two thirds of all lower extremity trauma. This study indicated that direct foot contact with vehicle interior was the major injury mechanism (approximately 70%) while inversion-eversion and dorsiflexion made up the rest of the trauma. Since lower extremity injuries occur frequently, are disabling, and involve large medical costs, vehicle modifications to create a more crashworthy environment for the lower extremities would be an effective means to reduce the incidence and severity of these injuries.

To assess the likelihood of lower limb injuries in an offset deformable barrier crash test, it would be necessary to modify the existing and proposed Part 572 dummies to add instrumentation to the lower limbs. Currently, none of the Part 572 dummies incorporate instrumentation for measured assessment of potential tibia and ankle-foot injuries. However, two instrumented lower limb designs are available for installation on Hybrid III dummies. Denton, Inc. has been selling since the mid-1980's an instrumented tibia for the 50th percentile adult male dummy to assess tibia injury potential primarily due to axial loading. This tibia is a direct replacement for the regular Part 572 Subpart E non-instrumented tibia. The other design, still at the experimental-prototype stage is the THOR–LX being developed under our direction by General Engineering Systems Analysis Company (GESAC) and Applied Safety Technologies Corporation (ASTC). The THOR–LX includes tibia and an ankle foot complex with extensive instrumentation.

In October 1998, Denton, Inc., announced commercial availability of a 12 channel instrumented tibia for the 5th percentile adult female Hybrid III dummy which can also be used as a direct replacement for the proposed Subpart O dummy's tibia. The Denton-design tibias are covered by Denton patents and to the best of our knowledge Denton is its sole manufacturer and supplier. While the automotive manufacturers have used the Denton tibia for the assessment of injuries based on the tibia index, some researchers have criticized this design for its unusual geometry, which could induce measurement errors. As a result, the tibia index has been considered to be a questionable injury assessment parameter. See ESU paper 98–37–0–11, SAE paper 962424 and SAE paper 973301. We have performed limited evaluation of the 50th percentile adult male Denton tibia and found no significant problems in its use for tibia index measurement at the laboratory level, but have little experience in its application on dummies in vehicle crash tests.

Inasmuch as the 5th percentile adult female instrumented Denton tibia has been commercially available for less than a year, we have neither laboratory nor vehicle experience to determine its utility and practicality when used as part of the Subpart O dummy for lower limb injury assessment purposes.

The prototype THOR–LX for the 50th percentile adult male Hybrid III dummy has extensive biomechanical benchmarking incorporating a number of humanlike features, and is capable of assessing the potential of tibia, ankle and foot injuries with an extensive array of sensors. The THOR–LX has had limited application in sled tests and vehicle crash tests both at NHTSA and at several vehicle manufacturers.

Completion of certification of prototype THOR–LX is currently expected by November 1, 1999. Extensive subsequent tests will be required to establish the repeatability and reproducibility of its commercial version in laboratory and vehicle tests, the consistency and utility of the measurements relative to the injury assessment potential and its merits in comparison to the Denton design.

The design of THOR–LX for the 5th percentile adult female dummy is still to be completed, prototypes built, and evaluated. Earliest estimated availability of THOR–LX prototypes for the 5th percentile adult female Hybrid III dummy is in late spring of 2000. Inasmuch as the design of the THOR–LX has been sponsored by the government, its availability for manufacturing will be free of any restrictions.

Injury assessment reference values (IARVs) for the Denton type design have been established and published in several technical documents. The IARVs, as published in proceedings of the Advisory Group for Aerospace Research and Development (AGARD), specify for the 5th percentile adult female dummy's tibia an axial compression limit of 5104 N (1,147 pounds), and a Tibia Index of 1 for which the critical bending moment is 115 N-m (1,018 lbfin.) and critical compression force at 22.9 kN (5,148 pounds).

IARVs for the THOR–LX are still to be developed. There is a considerable amount of biomechanics literature to provide a basis for setting of appropriate IARVs, but their interpretation for and applicability to the THOR–LX for injury assessment purposes is still to be done.

As indicated above, a potential significant advantage to adopting a 48 to 56 km/h (30 to 35 mph) unbelted offset deformable barrier crash test would be the benefits associated with reducing the number and severity of lower limb injuries. Recognizing the possibility of adopting this test, we request comments on how we should proceed in upgrading the 5th percentile adult female and 50th percentile adult male dummies so that they are capable of measuring lower limb injury potential, and in selecting/developing appropriate injury criteria.

9. Hybrid III Dummy Neck

There have been crash test situations where the agency has observed high neck moments being generated at the upper load cell of the Hybrid III dummy within 20 milliseconds of the initiation of large neck shear loads without observing substantial angular deformation of the dummy neck. While we believe that these are true loads being generated by the restraint system and not artifacts of an inappropriately designed neck transducer, we are uncertain whether this loading condition is biomechanically realistic. That is, the current Hybrid III neck exhibits considerable bending resistance (i.e., inflexibility) at its occipital condyle joint. The inflexibility may allow large moments to be transmitted to the neck by the head without much relative motion. This, in turn, can create a situation in which the angular deflection due to the applied moment is opposed and even sometimes nullified by the superimposed angular deflection induced by the neck's shear force. Thus, high moments can be produced with little observable rotational deformation of the neck. In contrast to this, the human occipital condyle joint appears to have considerable laxity which requires it to experience significant rotation (± 20 degrees of the head with respect to C1) before it can sustain a substantial moment across it. This would suggest that rapid, high moments generated on a dummy without any concomitant head/neck rotation are possibly an artifact of Hybrid III's neck design and not necessarily a real load that contribute to the potential for neck injury.

We seek comment on whether anyone else using the Hybrid III dummy has experienced this rapidly produced high moment/low angular deflection condition, whether they agree or disagree with our analysis of the mechanics and possible consequences of the situation, and whether they have any biomechanical data supporting either maintaining the current neck design or justifying its modification.

We note that it would not be possible to modify in any significant way the current neck design within the time frame of this rulemaking, *i.e.*, before the March 1, 2000 deadline for a final rule. Moreover, we believe that dummies with the current neck are adequate for measuring risk of neck injury in the proposed tests. To the extent that commenters advocate modifying the neck, we ask them to address how dummies with the current neck should be used in the final rule to measure risk of neck injury.

There is another technical issue related to the Hybrid III dummy neck for which we are seeking public comment. On the selection of data channel, SAE J 211, paragraph 5, states ''that selection of frequency response class is dependent upon many considerations, some of which may be unique to a particular test.'' Further, SAE J211 notes that ''(t)he channel class recommendations for a particular application should not be considered to imply that all the frequencies passed by that channel are significant for the application.'' In the case of head-to-air bag interaction, the agency observed that the specified channel frequency class (CFC) for the neck at 1,000 for force and 600 for the bending moment admits neck data that has spikes of very short duration that may not be appropriate for evaluating the potential for neck injury to the human. Preliminary evidence indicates that the human neck response under similar impact would respond with considerably lower frequency response class data, which implies that the neck response data when processed for injury assessment should be filtered to a lower CFC level than suggested by SAE J211. Accordingly, the agency seeks comments on an appropriate CFC for evaluating data from neck load cells for injury assessment purposes and whether that CFC should depend on the impact environment (e.g., vehicle crash tests, out-of-position tests, etc.)

H. Relationship Between the NPRM, Comments on the NPRM and This SNPRM

In developing this SNPRM, we have carefully considered all of the comments received in response to the NPRM. Moreover, as discussed throughout this document, we have made many changes in our proposal in response to the public comments.

Because our SNPRM differs significantly in many aspects from the NPRM, we do not contemplate any further consideration of the comments on the NPRM in developing the final rule. If any persons believe that we did not adequately consider particular issues raised in comments on the NPRM, they should raise those issues again in commenting on the SNPRM. Moreover, they should not merely cite the old comments, but should explain why they believe the issues remain valid in the context of the SNPRM.

IV. Costs and Benefits

We are placing in the docket a revised Preliminary Economic Assessment (PEA) to accompany this SNPRM. The PEA analyzes the potential impact of the proposed performance requirements and associated test procedures for advanced air bag systems. A summary of the PEA follows. We request comments on the analyses and estimates of costs and benefits presented in that document.

Benefits

The assessment provides analyses of the safety benefits from tests that reduce the risk of injury from air bags in low-speed crashes, as well as from tests that improve the overall effectiveness of air bags in high speed crashes. For out-of-position occupants that are at risk of being injured by air bags, the agency estimates that out of 45 at-risk drivers that would have been killed with pre-MY 1998 air bags, 21 to 39 would be saved with low-risk air bags for the driver side. The agency also estimates that out of 136 passengers that would have been killed with pre-MY 1998 air bags, 91 would be saved with weight sensors and 122 to 132 would be saved with low-risk air bags. Of an estimated 37 drivers that would have an MAIS 3–5 injury, 20 to 33 could be prevented by low-risk deployment air bags. Of an estimated 218 passengers that would receive MAIS 3–5 injuries, about 149 could be prevented by a weight sensor and 168 to 202 could be prevented with a low-risk deployment air bag.

The PEA also contains estimates of the benefits of incremental improvements in safety compared to a baseline of pre-MY 1998 air bag vehicles for each compliance scenario. These are calculated by taking the available test data (based on vehicles designed to the 48 kmph (30 mph) unbelted test) and determining the benefits of bringing those test scores that are above the proposed injury criteria performance levels down to the level of the proposal in this SNPRM. This methodology assumes that manufacturers would make as few changes as possible to their fleet to meet the new proposals. Thus, it does not assume that manufacturers might completely redesign their air bag fleet if the final rule had a test for the high speed unbelted test other than the 48 kmph (30 mph) rigid barrier test. This analysis found that improved safety from vehicles passing the high speed Alternative 1 proposals would save 70 to 226[26] lives and prevent 342 to 691 MAIS 2–5 injuries. Combining the at-risk benefits and the high speed Alternative 1 benefits results in a range of benefits of 161 to 226 lives saved and 491 to 691 non-fatal MAIS 2–5 injuries prevented.

A similar analysis was prepared for Alternative 2, however, there are such limited data available that the impact is uncertain. To the best of our knowledge, no vehicles have been designed to a 35–56 kmph (22–35 mph) offset deformable barrier test. The analysis for Alternative 2 uses test results from vehicles designed to meet a 30 mph unbelted rigid barrier test. It is questionable whether this gives appropriate results for the future benefits of such a test.

Another set of analyses compares the data available on redesigned MY 1998/99 air bags compared to pre-MY 1998 air bags to examine how well the redesigned bags are doing compared to their predecessors. Based on the limited data available for analysis, redesigned MY 1998/99 air bags appear to have significantly reduced the fatality rate to out-of-position occupants in low-speed crashes (less than 25 mph delta V) to about 30 percent of the fatality rate of pre-MY 1998 air bags. However, limited real-world data indicate no statistically significant difference in *overall* fatality rates between the pre-MY 1998 and MY 1998/99 air bags. Most test data between matched pairs of air bag vehicles show no difference for belted occupants and small differences for unbelted occupants when comparing the pre-MY 1998 and MY 1998/99 air bags.

The agency also estimated the benefits of an unbelted 29 to 40 kmph (18 to 25 mph) frontal rigid barrier test coupled with an increase in the belted test from the current up to 48 kmph (30 mph) test to an up to 56 kmph (35 mph) test. Assuming *all* vehicles air bags were designed to *only* meet the unbelted 25 mph rigid barrier and oblique tests, an estimated 214 to 397 lives saved by pre-MY 1998 air bags would not be saved. Assuming minor changes to the seat belt and air bag systems of these vehicles to meet the 56 kmph (35 mph) belted test, it is estimated that 6 to 13 belted occupant's lives could be saved by increasing the belted test speed to 56 kmph (35 mph). Overall, 201 to 391 lives saved by pre-MY 1998 air bags might not be saved by the 48 kmph (25

[26] Estimated benefits from at-risk groups and high speed tests can not be added to get a total since there is an overlap in benefits.

mph) unbelted/56 kmph (35 mph) belted option.

Sensitivity analyses are provided on increases in safety belt use and the impact of using the MY 1998/99 air bags as a baseline for determining benefits.

Sled Tests

NHTSA performed several analyses to estimate the impact of using the sled test in place of the 30 mph barrier test. One analytical approach assumed the possibility that air bags designed to the frontal sled test would provide benefits in full frontal impacts (12 o'clock strikes), but might provide no benefit in partial frontal impacts (10, 11, 1, and 2 o'clock strikes). This analysis estimates that if all passenger and driver side air bags were changed to only provide benefits in pure frontals, the only test mode in the sled test, there could be as many as 245 lives that would not be saved by air bags every year for unbelted occupants.

While the generic sled test has been part of FMVSS 208 since MY 1998, these vehicles were not designed from the start with only the generic sled test as the unbelted test, but were redesigned from vehicles originally designed to meet the pre-MY 1998 standards which included a 48 kmph (30 mph) unbelted rigid barrier test. Another set of analyses attempts to provide estimates of the potential loss in benefits if all vehicles were designed to the minimum performance of the generic sled test instead of a full vehicle barrier test in terms of impact severity and speed. The agency estimates that the generic sled test is equivalent to a barrier test of 22 to 25 mph in velocity. The range of estimates are that 214 to 722 fewer fatalities could be prevented if all vehicles were designed to the minimum requirements of a sled test.

Costs

Potential compliance costs for this proposal vary considerably and are dependent upon the method chosen by manufacturers to comply. Methods such as modified fold patterns and inflator adjustments can be accomplished for little or no cost. More sophisticated solutions such as proximity sensors can increase costs significantly. The range of potential costs for the compliance scenarios examined in this analysis is $20–$127 per vehicle (1997 dollars). This amounts to a total potential annual cost of up to $2 billion, based on 15.5 million vehicle sales per year.

Property Damage Savings

Compliance methods that involve the use of suppression technology have the potential to produce significant property damage cost savings because they prevent air bags from deploying unnecessarily. This saves repair costs to replace the passenger side air bag, and frequently to replace windshields damaged by the air bag deployment. Property damage savings from these requirements could total up to $85 over the lifetime of an average vehicle. This amounts to a potential cost savings of nearly $1.3 billion.

Net Cost Per Fatality Prevented

Based on the analysis which assumes manufacturers would make the minimal amount of changes necessary to meet the proposals, net costs per equivalent fatality prevented estimates were made. Property damage savings have the potential to offset all, or nearly all of the cost of meeting this proposal. The maximum range of cost per equivalent fatality saved from the scenarios examined in this analysis is a net savings of $1.3 million per equivalent fatality saved to a net cost of $2.6 million per equivalent fatality saved.

V. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document is economically significant and was reviewed by the Office of Management and Budget under E.O. 12866, ''Regulatory Planning and Review.'' The rulemaking action has also been determined to be significant under the Department's regulatory policies and procedures. NHTSA is placing in the public docket a Preliminary Economic Assessment (PEA) describing the costs and benefits of this rulemaking action. The costs and benefits are summarized earlier in this document.

B. Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) We have prepared an Initial Regulatory Flexibility Analysis (IFRA), which is part of the PEA. The IFRA tentatively concludes that the proposal could affect a substantial number of small businesses, but the economic impact on a substantial number of small businesses need not be significant. Small organizations and small governmental units would not be significantly affected since the potential cost impacts associated with this proposed action should only slightly affect the price of new motor vehicles.

The proposed rule would directly affect motor vehicle manufacturers and indirectly affect air bag manufacturers, seating manufacturers and dummy manufacturers.

For passenger car and light truck manufacturers, NHTSA estimates that there are only about four small manufacturers in the United States. These manufacturers serve a niche market, and the agency believes that small manufacturers do not manufacture even 0.1 percent of total U.S. passenger car and light truck production per year. The agency notes that these manufacturers are already required to provide air bags and certify compliance to Standard No. 208's dynamic impact requirements. Since the proposal would add additional test requirements for air bags, it would increase compliance costs for these, as well as other, vehicle manufacturers.

The agency does not believe that there are any small air bag manufacturers.

There are several manufacturers of dummies and/or dummy parts. All of them are considered small businesses. While the proposed rule would not impose any requirements on these manufacturers, it would be expected to have a positive impact on these types of small businesses by increasing demand for dummies.

NHTSA notes that several hundred final stage vehicle manufacturers and alterers could also be affected by this proposal. These manufacturers buy incomplete vehicles, add seating systems to vehicles without seats, and replace existing seats with new ones. If a manufacturer uses a sensing system in the seat for weight or presence sensing, then the second-stage manufacturer or alterer may need to use seats from the original manufacturer or will need to rely on a seat manufacturer to provide the same technology. Otherwise the second-stage manufacturer may need to use the existing seat or else certify compliance with the standard after replacing the seats. We do not have estimates of the costs to these manufacturers at this time. We request those manufacturers to submit estimates as part of their comments on this SNPRM.

NHTSA knows of 11 suppliers of seating systems that are small businesses. There are about 10 suppliers of seating systems that are not small businesses. The small businesses serve a niche market and provide seats for less than two percent of vehicles. Depending on the technology chosen to meet the proposed advanced air bag rule, these suppliers will need to keep up with emerging technology.

The agency believes that the economic impact on many of the manufacturers affected by this proposal would be small. While the small vehicle manufacturers would face additional compliance costs, the agency believes that air bag suppliers would likely provide much of the engineering expertise necessary to meet the new requirements, thereby helping to keep the overall impacts small. The agency also notes that, in the unlikely event that a small vehicle manufacturer did face substantial economic hardship, it could apply for a temporary exemption for up to three years. See 49 CFR Part 555. It could subsequently apply for a renewal of such an exemption. The greatest burden would likely be borne by seating manufacturers who do not supply seats to anyone other than second-stage manufacturers and alterers. Depending on the technology employed by the vehicle manufacturers, these seating manufacturers may need to engage in new business arrangements to permit their seats to work with an existing sensing system. While the proposed requirements would increase the demand for dummies, thereby having a positive impact on dummy manufacturers, the agency does not believe that such increased demand would be sufficient to create a significant economic impact on the dummy manufacturers. The agency requests comments concerning the economic impact on small vehicle manufacturers and dummy manufacturers.

Additional information concerning the potential impacts of the proposed requirements on small entities is presented in the PEA.

C. National Environmental Policy Act

NHTSA has analyzed this proposed amendment for the purposes of the National Environmental Policy Act and determined that it would not have any significant impact on the quality of the human environment.

D. Executive Order 12612 (Federalism)

The agency has analyzed this proposed amendment in accordance with the principles and criteria set forth in Executive Order 12612. NHTSA has determined that the proposed amendment does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

E. Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). These effects are discussed above in Section IV of this preamble and in the PEA. The preamble and the PEA also identify and consider a reasonable number of regulatory alternatives for achieving the objectives of TEA 21. Given the requirement that an agency issuing a final rule subject to the Act select the ''least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule,'' we request comments that will aid the agency in making that selection.

F. Executive Order 12778 (Civil Justice Reform)

This proposed rule does not have any retroactive effect. Under section 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

G. Paperwork Reduction Act

If made final, this supplemental notice of proposed rulemaking would include the following ''collections of information,'' as that term is defined in 5 CFR Part 1320 *Controlling Paperwork Burdens on the Public:*

Air Bag Phase-In Reporting Requirements—Once a year for four years, manufacturers would be required to report to NHTSA their annual production of vehicles with advanced air bags. As previously explained, we have proposed a four year phase-in period that ends in 2005. The Office of Management and Budget has approved NHTSA's collection of this information, assigning the collection OMB clearance no. 2127–0599. If this rule is made final, there would be 1,260 burden hours a year on the public resulting from this collection.

Air Bag Warning Labels—New air bag warning labels are proposed in this SNPRM. At present, OMB has approved NHTSA's collection of labeling requirements under OMB clearance no. 2127–0512, *Consolidated Labeling Requirements for Motor Vehicles (Except the Vehicle Identification Number).* This clearance will expire on 6/30/2001, and is cleared for 71,095 burden hours on the public.

NHTSA estimates that the air bag warning labels would increase the information burden on the public as follows. There are 24 motor vehicle manufacturers that would be affected by the air bag warning label requirement, and the labels would be placed on approximately 15,000,000 vehicles per year. The label would be placed on each vehicle once. Since NHTSA would specify the exact content of the labels, the manufacturers would spend 0 hours developing the labels. The technical burden (time required for affixing labels) would be .0002 hours per label. NHTSA estimates that the total annual burden imposed on the public as a result of the air bag warning labels would be 3,000 hours (15 million vehicles multiplied by .0002 hours per label). Since the proposed labels would replace existing labels, this constitutes no additional burden on manufacturers.

Another way of estimating the burden associated with the labels is to assess the non-time related burden, i.e., the costs. The agency requests comments on the costs associated with labeling.

Advanced Air Bag Information in the Owner's Manual—This rulemaking would require advanced air bag information in the owner's manual that is additional to the information already required under the standard. At present, OMB has approved NHTSA's collection of owner's manual requirements under OMB clearance no. 2127–0541 *Consolidated Justification of Owner's Manual Requirements for Motor Vehicles and Motor Vehicle Equipment.* This collection includes the burdens that would be imposed as a result of owners' manual information about air bags. This clearance will expire on 10/31/2001 and is cleared for 1,371 burden hours on the public.

Public comment is sought on NHTSA's estimate of the additional burden imposed on the public by the air bag warning label and whether the SNPRM would impose ''collections of information'' in addition to that for which NHTSA has already obtained clearances from OMB.

H. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each

year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

I. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this SNPRM.

J. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rulemaking directly involves decisions based on health risks that disproportionately affect children, namely, the risk of deploying air bags to children. However, this rulemaking serves to reduce, rather than increase, that risk.

K. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards [27] in its regulatory activities unless doing so would be inconsistent with applicable law (e.g., the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. In meeting that requirement, we are required to consult with voluntary, private sector, consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

We have incorporated the out-of-position tests one and two developed by the International Standards Organization (ISO) as part of the proposed low-risk deployment tests for the out-of-position 5th percentile adult female on the driver-side air bag and for the 6-year-old child on the passenger-side air bag. No other voluntary consensus standards are addressed by this rulemaking.

VI. Submission of Comments

How Can I Influence NHTSA's Thinking on This Proposed Rule?

In developing this SNPRM, we tried to address the concerns of all our stakeholders. Your comments will help us improve this rule. We invite you to provide different views on options we propose, new approaches we have not considered, new data, how this proposed rule may affect you, or other relevant information. We welcome your views on all aspects of this proposed rule, but request comments on specific issues throughout this document. We grouped these specific requests near the end of the sections in which we discuss the relevant issues. Your comments will be most effective if you follow the suggestions below:

Explain your views and reasoning as clearly as possible.

- Provide solid technical and cost data to support your views.
- If you estimate potential costs, explain how you arrived at the estimate.
- Tell us which parts of the SNPRM you support, as well as those with which you disagree.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the SNPRM, such as the units or page numbers of the preamble, or the regulatory sections.
- Be sure to include the name, date, and docket number with your comments.

How do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

In addition, for those comments of 4 or more pages in length, we request that you send 10 additional copies, as well as one copy on computer disc, to: Mr. Clarke Harper, Chief, Light Duty Vehicle Division, NPS–11, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. We emphasize that this is not a requirement. However, we ask that you do this to aid us in expediting our review of all comments. The copy on computer disc may be in any format, although we would prefer that it be in WordPerfect 8.

Comments may also be submitted to the docket electronically by logging onto the Dockets Management System website at http://dms.dot.gov. Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the

[27] Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as ''performance-based or design-specific technical specifications and related management systems practices.'' They pertain to ''products and processes, such as size, strength, or technical performance of a product, process or material.''

information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES.** To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (http://dms.dot.gov/).

(2) On that page, click on ''search.''

(3) On the next page *(http://dms.dot.gov/search/),* type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

List of Subjects

49 CFR Part 552

Administrative practice and procedure, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 571

Imports, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

49 CFR Part 585

Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 595

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR Chapter V as follows:

PART 552—PETITIONS FOR RULEMAKING, DEFECT, AND NON-COMPLIANCE ORDERS

1. The authority citation for Part 552 of Title 49 would continue to read as follows:

Authority: 49 U.S.C. 30111, 30118, and 30162; delegation of authority at 49 CFR 1.50.

§ 552.1 through 552.10 [Redesignated as Subpart A]

2. Sections 552.1 through 552.10 would be designated as Subpart A and a new subpart heading would be added to read as follows:

Subpart A—General

3. A new subpart B would be added to Part 552 to read as follows:

Subpart B—Petitions for Expedited Rulemaking To Establish Dynamic Automatic Suppression System Test Procedures for Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection

Sec.

Subpart B—Petitions for Expedited Rulemaking To Establish Dynamic Automatic Suppression System Test Procedures for Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection

§ 552.11 Application.

This subpart establishes procedures for the submission and disposition of petitions filed by interested parties to initiate rulemaking to add a test procedure to 49 CFR 571.208, S28.

§ 552.12 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Dynamic automatic suppression system (DASS)* means a portion of an air bag system that automatically controls whether or not the air bag deploys during a crash by:

(1) Sensing the location of an occupant, moving or still, in relation to the air bag;

(2) Interpreting the occupant characteristics and location information to determine whether or not the air bag should deploy; and

(3) Activating or suppressing the air bag system based on the interpretation of characteristics and occupant location information.

(b) *Automatic suppression zone or ASZ* means a three-dimensional zone adjacent to the air bag cover, specified by the vehicle manufacturer, where air bag deployment will be suppressed by the DASS if a vehicle occupant enters the zone under specified conditions.

(c) *Standard No.* 208 means 49 CFR 571.208.

§ 552.13 Form of petition.

Each petition filed under this subpart shall—

(a) Be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, DC 20590.

(b) Be written in the English language.

(c) State the name and address of the petitioner.

(d) Set forth in full the data, views and arguments of the petitioner supporting the requested test procedure, including all of the content information specified by § 552.14. Any documents incorporated by reference in the procedure must be submitted with the petition.

(e) Specify and segregate any part of the information and data submitted that the petitioner wishes to have withheld from public disclosure in accordance with Part 512 of this chapter.

(f) Not request confidential treatment for any aspect of the requested test procedure and, to the extent confidential treatment is requested concerning a particular DASS or data and analysis submitted in support of the petition, provide a general non-confidential description of the operation of the DASS and of the data and analysis supporting the petition.

(g) Set forth a requested effective date and be submitted at least nine months before that date.

§ 552.14 Content of petition.

The petitioner shall provide the following information:

(a) A set of proposed test procedures for S28.1, S28.2, S28.3, and S28.4 of Federal Motor Vehicle Safety Standard No. 208 which the petitioner believes are appropriate for assessing a particular dynamic automatic suppression system.

(1) For S28.1 of Standard No. 208, the petitioner shall specify at least one specific position for the Part 572, subpart O 5th percentile female dummy that is:

(i) Outside but adjacent to the ASZ, and

(ii) Representative of an occupant position that is likely to occur during a frontal crash.

(2) For S28.2 of Standard No. 208, the petitioner shall specify at least one specific position for the Part 572 Subpart P 3-year-old child dummy and at least one specific position for the Part 572 Subpart N 6-year-old child dummy that are:

(i) Outside but adjacent to the ASZ, and

(ii) Representative of occupant positions that are likely to occur during a frontal crash where pre-crash braking occurs.

(3) For S28.3 of Standard No. 208, the petitioner shall specify a procedure which tests the operation of the DASS by moving a test device toward the driver air bag in a manner that simulates the motion of an occupant during pre-crash braking or other pre-crash maneuver. The petitioner shall include a complete description, including drawings and instrumentation, of the test device employed in the proposed test. The petitioner shall include in the procedure a means for determining whether the driver air bag was suppressed before any portion of the specified test device entered the ASZ during the test. The procedure must also include a means of determining when the specified test device occupies the ASZ.

(4) For S28.4 of Standard No. 208, the petitioner shall specify a procedure which tests the operation of the DASS by moving a test device toward the passenger air bag in a manner that simulates the motion of an occupant during pre-crash braking or other pre-crash maneuver. The petitioner shall include a complete description, including drawings and instrumentation, of the test device employed in the proposed test. The petitioner shall include in the procedure a means for determining whether the passenger air bag was suppressed before any portion of the specified test device entered the ASZ during the test. The procedure must also include a means of determining when the specified test device occupies the ASZ.

(b) A complete description and explanation of the particular DASS that the petitioner believes will be appropriately assessed by the recommended test procedures. This must include:

(1) A complete description of the logic used by the DASS in determining whether to suppress the air bag or allow it to deploy. Such description must include flow charts or similar materials outlining the operation of the system logic, the system reaction time, the time duration used to evaluate whether the air bag should be suppressed or deployed, changes, if any, in system performance based on the size of an occupant and vehicle speed, and a description of the size and shape of the zone where under similar circumstances and conditions the DASS may either allow or suppress deployment. Such description shall also address whether and how the DASS discriminates between an occupant's torso or head entering the ASZ as compared to an occupant's hand or arm, and whether and how the DASS discriminates between an occupant entering the ASZ and an inanimate object such as a newspaper or ball entering the ASZ.

(2) Detailed specifications for the size and shape of the ASZ, including whether the suppression zone is designed to change size or shape depending on the vehicle speed, occupant size, or other factors.

(c) Analysis and data supporting the appropriateness, repeatability, reproducibility and practicability of each of the proposed test procedures.

(1) For the procedures proposed for inclusion in S28.1 and S28.2 of Standard No. 208, the petitioner shall provide the basis for the proposed dummy positions, including but not limited to, why the positions are representative of what is likely to occur in real world crashes.

(2) For the procedures proposed for inclusion in S28.3 and S28.4 of Standard No. 208, the petitioner shall provide:

(i) A complete explanation of the means used in the proposed test to ascertain whether the air bag is suppressed or activated during the test.

(ii) A complete description of the means used to evaluate the ability of a dynamic system to detect and respond to an occupant moving toward an air bag, including the method used to move a test device toward an air bag at speeds representative of occupant movement during pre-crash braking or other pre-crash maneuver.

(iii) The procedure used for locating the test device inside a test vehicle in preparation for testing, including an accounting of the reference points used to specify such location.

(iv) An explanation of the methods used to measure the amount of time needed by a suppression system to suppress an air bag once a suppression triggering event occurs.

(v) High speed film or video of at least two tests of the DASS using the proposed test procedure.

(vi) Data generated from not less than two tests of the DASS using the proposed test procedure, including an account of the data streams monitored during testing and complete samples of these data streams from not less than two tests performed under the proposed procedure.

(d) Analysis concerning the variety of potential DASS designs for which the requested test procedure is appropriate; e.g., whether the test procedures are appropriate only for the specific DASS design contemplated by the petitioner, for all DASS designs incorporating the same technologies, or for all DASS designs.

§ 552.15 Processing of petition.

(a) NHTSA will process any petition that contains the information specified by this subpart. If a petition fails to provide any of the information, NHTSA will not process the petition but will advise the petitioner of the information that must be provided if the agency is to process the petition. The agency will seek to notify the petitioner of any such deficiency within 30 days after receipt of the petition.

(b) At any time during the agency's consideration of a petition submitted under this part, the Administrator may request the petitioner to provide additional supporting information and data and/or provide a demonstration of any of the requested test procedures. The agency will seek to make any such request within 60 days after receipt of the petition. Such demonstration may be at either an agency designated facility or one chosen by the petitioner, provided that, in either case, the facility must be located in North America. If such a request is not honored to the satisfaction of the agency, the petition will not receive further consideration until the requested information is submitted.

(c) The agency will publish in the **Federal Register** either a Notice of Proposed Rulemaking proposing adoption of the requested test procedures, possibly with changes and/or additions, or a notice denying the petition. The agency will seek to issue

either notice within 120 days after receipt of a complete petition. However, this time period may be extended by any time period during which the agency is awaiting additional information it requests from the petitioner or is awaiting a requested demonstration. The agency contemplates a 30 day comment period for any Notice of Proposed Rulemaking, and will endeavor to issue a final rule within 60 days thereafter.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

4. The authority citation for Part 571 of Title 49 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

5. Section 571.208 would be amended by revising S3, S4.5.1 heading, S4.5.1(b)(1), S4.5.1(b)(2), 4.5.1(e), S4.5.1(f), S4.5.4, S5.1, S5.1.1, S5.1.2, S6.1, S6.2, 6.4, S8.1.5 and S13, removing S4.5.5, adding S4.1.5.4, S4.2.6.3, S4.7, S4.8, S4.9, S5.4, S5.4.1, S5.4.2, S5.4.2.1, S5.4.2.2, S5.4.2.3, S5.4.2.4, S6.6, S6.7, S14 through S33.5, and adding new figures 8, 9 and 10 in numerical order and adding Appendix A at the end of the section after the figures to read as follows:

§571.208 Standard No. 208; Occupant crash protection.

[*Proposed high speed test Alternative 1*—unbelted rigid barrier (29–48 km/h) (18–30 mph), belted rigid barrier (0–48 km/h) (0–30 mph)—consists of proposed sections S5.1.1, S5.1.2, S6.1, S6.2(b), S6.3, S6.4(b), S6.5, S6.6, S6.7, S14.3, S15.1, S15.2, S15.3, S15.4, S16.1(a), S16.1(b), S16.2, S16.3, S17.1, and S18. It does not include S5.4 or S17.2, i.e., if Alternative 1 were adopted, neither S5.4 nor S17.2 would be adopted. *Proposed high speed test Alternative 2*—unbelted offset deformable barrier (35–56 km/h) (22–35 mph), belted rigid barrier(0–48 km/h) (0–30 mph)—consists of proposed sections S5.1.1, S5.4, S6.1, S6.2(b), S6.3, S6.4(b), S6.5, S6.6, S6.7, S14.3, S15.1, S15.3, S15.4, S16.1(a), S16.2, S16.3, S17.1, S17.2, and S18. It does not include S5.1.2, S15.2, or S16.1(b), i.e., if Alternative 2 were adopted, neither S5.1.2 nor S15.2 nor S16.1(b) would be adopted.]

* * * * *

S3. *Application.*

(a) This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses. In addition, S9, *Pressure vessels and explosive devices,* applies to vessels designed to contain a pressurized fluid or gas, and to explosive devices, for use in the above types of motor vehicles as part of a system designed to provide protection to occupants in the event of a crash.

(b) Notwithstanding any language to the contrary, any vehicle manufactured after March 19, 1997 and before September 1, 2005 that is subject to a dynamic crash test requirement conducted with unbelted dummies may meet the requirements specified in S13 instead of the applicable unbelted requirement, unless the vehicle is certified to meet the requirements specified in S14.3, S15, S17, S19, S21, S23, S25, S30, and S32.

(c) For vehicles which are certified to meet the requirements specified in S13 instead of the otherwise applicable dynamic crash test requirement conducted with unbelted dummies, compliance with S13 shall, for purposes of Standards No. 201, 203 and 209, be deemed as compliance with the unbelted frontal barrier requirements of S5.1.

* * * * *

S4.1.5.4 *Passenger cars certified to S14.* At each front outboard designated seating position meet the frontal crash protection requirements of S5.1.2 [under Alternative 1] [or] S5.4 [under Alternative 2] by means that require no action by vehicle occupants. A vehicle shall not be deemed to be in noncompliance with this standard if its manufacturer establishes that it did not have reason to know in the exercise of due care that such vehicle is not in conformity with the requirement of this standard.

* * * * *

S4.2.6.3 *Trucks, buses, and multipurpose passenger vehicles with a GVWR of 3,855 kg (8,500 pounds) or less and an unloaded vehicle weight of 2,495 kg (5,500 pounds) or less certified to S14.* Each truck, bus, or multipurpose passenger vehicle with a GVWR of 3,855 kg (8,500 pounds) or less and an unloaded vehicle weight of 2,495 kg (5,500 pounds) or less certified to S14 shall, at each front outboard designated seating position, meet the frontal crash protection requirements of S5.1.2 [under Alternative 1] [or] S5.4 [under Alternative 2] by means that require no action by vehicle occupants. A vehicle shall not be deemed to be in noncompliance with this standard if its manufacturer establishes that it did not have reason to know in the exercise of due care that such vehicle is not in conformity with the requirement of this standard.

* * * * *

S4.5.1 *Labeling and owner's manual information.*

* * * * *

(b) * * *

(1) Except as provided in S4.5.1(b)(2), each vehicle shall have a label permanently affixed to either side of the sun visor, at the manufacturer's option, at each front outboard seating position that is equipped with an inflatable restraint. The label shall conform in content to the label shown in either Figure 6a or 6b of this standard, as appropriate, and shall comply with the requirements of S4.5.1(b)(1)(i) through S4.5.1(b)(1)(iv).

(i) The heading area shall be yellow with the word ''WARNING'' and the alert symbol in black.

(ii) The message area shall be white with black text. The message area shall be no less than 30 cm^2 (4.7 in^2).

(iii) The pictogram shall be black with a red circle and slash on a white background. The pictogram shall be no less than 30 mm (1.2 inches) in diameter.

(iv) If the vehicle does not have a back seat, the label shown in Figure 6a or 6b may be modified by omitting the statement: ''The BACK SEAT is the SAFEST place for children.''

(2) Vehicles manufactured after September 1, 2002 and certified to meet the requirements specified in S19, S21, and S23, shall have a label permanently affixed to either side of the sun visor, at the manufacturer's option, at each front outboard seating position that is equipped with an inflatable restraint. The label shall conform in content to the label shown in Figure 8 of this standard and shall comply with the requirements of S4.5.1(b)(2)(i) through S4.5.1(b)(2)(iv).

(i) The heading area shall be yellow with the word ''CAUTION'' and the alert symbol in black.

(ii) The message area shall be white with black text. The message area shall be no less than 30 cm2 (4.7 in^2).

(iii) The pictogram shall be black on a white background. The pictogram shall be no less than 30 mm (1.2 inches) in length.

(iv) If the vehicle does not have a back seat, the label shown in Figure 8 may be modified by omitting the statement: ''The BACK SEAT is the SAFEST place for CHILDREN.''

* * * * *

(e) *Label on the dashboard.*

(1) Except as provided in S4.5.1(e)(2), each vehicle that is equipped with an inflatable restraint for the passenger position shall have a label attached to a location on the dashboard or the steering wheel hub that is clearly visible

from all front seating positions. The label need not be permanently affixed to the vehicle. This label shall conform in content to the label shown in Figure 7 of this standard, and shall comply with the requirements of S4.5.1(e)(1)(i) through S4.5.1(e)(1)(iii).

(i) The heading area shall be yellow with the word ''WARNING'' and the alert symbol in black.

(ii) The message area shall be white with black text. The message area shall be no less than 30 cm^2 (4.7 in^2).

(iii) If the vehicle does not have a back seat, the label shown in Figure 7 may be modified by omitting the statement: ''The back seat is the safest place for children 12 and under.''

(2) Vehicles manufactured after September 1, 2002 and certified to meet the requirements specified in S19, S21, and S23, that are equipped with an inflatable restraint for the passenger position shall have a label attached to a location on the dashboard or the steering wheel hub that is clearly visible from all front seating positions. The label need not be permanently affixed to the vehicle. This label shall conform in content to the label shown in Figure 9 of this standard, and shall comply with the requirements of S4.5.1(e)(2)(i) through S4.5.1(e)(2)(iii).

(i) The heading area shall be yellow with black text.

(ii) The message area shall be white with black text. The message area shall be no less than 30 cm^2 (4.7 in^2).

(iii) If the vehicle does not have a back seat, the label shown in Figure 9 may be modified by omitting the statement: ''The back seat is the safest place for children.''

(f) *Information to appear in owner's manual.*

(1) The owner's manual for any vehicle equipped with an inflatable restraint system shall include a description of the vehicle's air bag system in an easily understandable format. The owner's manual shall include a statement to the effect that the vehicle is equipped with an air bag and lap/shoulder belt at one or both front outboard seating positions, and that the air bag is a supplemental restraint at those seating positions. The information shall emphasize that all occupants, including the driver, should always wear their seat belts whether or not an air bag is also provided at their seating position to minimize the risk of severe injury or death in the event of a crash. The owner's manual shall also provide any necessary precautions regarding the proper positioning of occupants, including children, at seating positions equipped with air bags to ensure maximum safety protection for those occupants. The owner's manual shall also explain that no objects should be placed over or near the air bag on the instrument panel, because any such objects could cause harm if the vehicle is in a crash severe enough to cause the air bag to inflate.

(2) For any vehicle certified to meet the requirements specified in S14.3, S15, S17, S19, S21, S23, S25, S30, and S32, the manufacturer shall also include in the vehicle's owner's manual a discussion of the advanced passenger air bag system installed in the vehicle. The discussion shall be written to explain the proper functioning of the advanced air bag system and shall provide a summary of the actions that may affect the proper functioning of the system. The discussion shall include, as a minimum, the following topics:

(a) presentation and explanation of the main components of the advanced passenger air bag system.

(b) explanation of how the components function together as part of the advanced passenger air bag system.

(c) basic requirements for proper operation, including an explanation of the actions that may affect the proper functioning of the system.

(d) a complete description of the passenger air bag suppression system installed in the vehicle including a discussion of any suppression zone.

(e) an explanation of the interaction of the advanced passenger air bag system with other vehicle components, such as seat belts, seats or other components.

(f) a summary of the expected outcomes when child restraint systems, children and small teenagers or adults are both properly and improperly positioned in the passenger seat, including cautionary advice against improper placement of child restraint systems.

(g) tips and guidelines to improve consumer understanding of the proper use of the advanced passenger air bag system.

(h) information on how to contact the vehicle manufacturer concerning modifications for persons with disabilities that may affect the advanced air bag system.

* * * * *

S4.5.4 *Passenger air bag manual cut-off device.* Passenger cars, trucks, buses, and multipurpose passenger vehicles manufactured before September 1, 2005 may be equipped with a device that deactivates the air bag installed at the right front passenger position in the vehicle, if all the conditions in S4.5.4.1 through S4.5.4.4 are satisfied.

* * * * *

S4.7 *Selection of compliance options.* Where manufacturer options are specified, the manufacturer shall select the option by the time it certifies the vehicle and may not thereafter select a different option for the vehicle. Each manufacturer shall, upon request from the Office of Vehicle Safety Compliance, provide information regarding which of the compliance options it has selected for a particular vehicle or make/model.

S4.8 *Values and tolerances.* Wherever a range of values or tolerances are specified, requirements shall be met at all values within the range of values or tolerances. All angles and directions (*e.g.,* vertical or horizontal) specified are approximate.

S4.9 *Metric values.* Specifications and requirements are given in metric units with English units provided for reference. The metric values are controlling.

* * * * *

S5 *Occupant crash protection requirements.*

S5.1 *Frontal barrier crash test.*

S5.1.1 *Belted test.* Impact a vehicle traveling longitudinally forward at any speed, up to and including 48 km/h (30 mph), into a fixed rigid barrier that is perpendicular to the line of travel of the vehicle, or at any angle up to 30 degrees in either direction from the perpendicular to the line of travel of the vehicle, under the applicable conditions of S8 and S10, including S10.9 (manual belt adjustment). For vehicles certified to S14 of this standard, the test dummy specified in S8.1.8 placed in each front outboard designated seating position shall meet the injury criteria of S6.1, S6.2(b), S6.3, S6.4(b), S6.5, and S6.6 of this standard. All other vehicles to which S5.1.1 is applicable shall meet the injury criteria of S6.1, S6.2(a), S6.3, S6.4(a), and S6.5.

S5.1.2 *Unbelted test.* Impact a vehicle traveling longitudinally forward at any speed, between 29 km/h (18 mph) and 48 km/h (30 mph), inclusive, into a fixed rigid barrier that is perpendicular to the line of travel of the vehicle, or at any angle up to 30 degrees in either direction from the perpendicular to the line of travel of the vehicle under the applicable conditions of S8 and S10, excluding S10.9. The test dummy specified in S8.1.8 placed in each front outboard designated seating position shall meet the injury criteria of S6.1, S6.2(b), S6.3, S6.4(b), S6.5, and S6.6 of this standard.

* * * * *

S5.4 *Offset deformable barrier crash test.*

S5.4.1 *General provisions.* Place a Part 572 Subpart E Hybrid III 50th percentile adult male test dummy at each front outboard seating position of

the vehicle, in accordance with procedures specified in S10. Impact the vehicle traveling longitudinally forward at any speed, between 35.4 km/h (22 mph) and 56 km/h (35 mph), inclusive, into a fixed offset deformable barrier under the conditions specified in S5.4.2 of this standard. The test dummies shall meet the injury criteria specified in S6.1, S6.2(b), S6.3, S6.4(b), S6.5, and S6.6 of this standard.

S5.4.2 *Test conditions.*

S5.4.2.1 *Offset frontal deformable barrier.* The offset frontal deformable barrier shall conform to the specifications set forth in Subpart B of Part 587 of this chapter.

S5.4.2.2 *General test conditions.* All of the test conditions specified in S8.1 of this standard apply.

S5.4.2.3 *Dummy seating and positioning.* The anthropomorphic test dummies are seated and positioned as specified in S10 of this standard.

S5.4.2.4 *Impact configuration.* The test vehicle shall impact the barrier with the longitudinal line of the vehicle parallel to the line of travel, and perpendicular to the barrier face. The test vehicle shall be aligned so that the vehicle strikes the barrier with 40 percent overlap on either the left or the right side of the vehicle, with the vehicle's width engaging the barrier face such that the vehicle's longitudinal centerline is offset outboard of the edge of the barrier face by 10 percent of the vehicle's width ± 25 mm (1.0 inch) as illustrated in Figure 10. The vehicle width is defined as the maximum dimension measured across the widest part of the vehicle, including bumpers and molding but excluding such components as exterior mirrors, flexible mud flaps, marker lamps, and dual rear wheel configurations.

* * * * *

S6.1 All portions of the test dummy shall be contained within the outer surfaces of the vehicle passenger compartment.

S6.2 *Head injury criteria.*

(a) The resultant acceleration at the center of gravity of the head shall be such that the expression:

$$\left[\frac{1}{(t_2 - t_1)}\int_{t_1}^{t_2} a\,dt\right]^{2.5}(t_2 - t_1)$$

shall not exceed 1,000 where a is the resultant acceleration expressed as a multiple of g (the acceleration of gravity), and t_1 and t_2 are any two points in time during the crash of the vehicle which are separated by not more than a 36 millisecond time interval.

(b) The resultant acceleration at the center of gravity of the head shall be such that the expression:

$$\left[\frac{1}{(t_2 - t_1)}\int_{t_1}^{t_2} a\,dt\right]^{2.5}(t_2 - t_1)$$

shall not exceed 700 where a is the resultant acceleration expressed as a multiple of g (the acceleration of gravity), and t_1 and t_2 are any two points in time during the crash of the vehicle which are separated by not more than a 15 millisecond time interval.

* * * * *

S6.4 *Chest deflection.*

(a) Compression deflection of the sternum relative to the spine, as determined by instrumentation shown in drawing 78051–218, revision U incorporated by reference in Part 572, subpart E of this chapter, shall not exceed 76 mm (3 inches).

(b) Compressive deflection of the sternum relative to the spine, as determined by instrumentation shown in drawing 78051–317, revision A, incorporated by reference in Part 572, subpart E, shall not exceed 63 mm (2.5 inches).

* * * * *

S6.6 *Neck injury.* The biomechanical neck injury predictor, Nij, shall not exceed a value of 1.0 at any point in time. The following procedure shall be used to compute Nij. The axial force (Fz) and flexion/extension moment about the occipital condyles (My) shall be used to calculate four combined injury predictors, collectively referred to as Nij. These four combined values represent the probability of sustaining each of four primary types of cervical injuries; namely tension-extension (N_{TE}), tension-flexion (N_{TF}), compression-extension (N_{CE}), and compression-flexion (N_{CF}) injuries. Axial force shall be filtered at SAE class 1000 and flexion/extension moment (My) shall be filtered at SAE class 600. Shear force, which shall be filtered at SAE class 600, is used only in conjunction with the measured moment to calculate the effective moment at the location of the occipital condyles. The equation for calculating the Nij criteria is given by:

Nij = (Fz / Fzc) + (My / Myc)

where Fzc and Myc are critical values corresponding to:

Fzc = 4500 N (1012 lbf) for tension
Fzc = 4500 N (1012 lbf) for compression
Myc = 310 Nm (229 lbf-ft) for flexion about occipital condyles
Myc = 125 Nm (92 lbf-ft) for extension about occipital condyles

Each of the four Nij values shall be calculated at each point in time, and all four values shall not exceed 1.0 at any point in time. When calculating N_{TE} and N_{TF}, all compressive loads shall be set to zero. Similarly, when calculating N_{CE} and N_{CF}, all tensile loads shall be set to zero. In a similar fashion, when calculating N_{TE} and N_{CE}, all flexion moments shall be set to zero. Likewise, when calculating N_{TF} and N_{CF}, all extension moments shall be set to zero.

S6.7 *Test duration for purpose of measuring injury criteria.* For tests conducted pursuant to S5.1.1, S5.1.2, and S5.4, the injury criteria shall be met up to 300 milliseconds after the vehicle strikes the barrier.

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S8.1.5 Movable vehicle windows and vents are placed in the fully closed position, unless the vehicle manufacturer chooses to specify a different adjustment position prior to the time it certifies the vehicle.

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S13 *Alternative unbelted test available, under S3(b) of this standard, for certain vehicles manufactured before September 1, 2005.*

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S14 *Advanced air bag requirements for passenger cars and for trucks, buses, and multipurpose passenger vehicles with a GVWR of 3,855 kg (8500 pounds) or less and an unloaded vehicle weight of 2,495 kg (5500 pounds) or less, except for walk-in van-type trucks or vehicles designed to be sold exclusively to the U.S. Postal Service.*

S14.1 *Vehicles manufactured on or after September 1, 2002 and before September 1, 2005.*

(a) For vehicles manufactured on or after September 1, 2002 and before September 1, 2005, a percentage of the manufacturer's production, as specified in S14.1.1, shall meet the requirements specified in S14.3, S15, S17, S19, S21, S23, S25, S30, and S32 (in addition to the other requirements specified in this standard).

(b) Manufacturers that manufacture two or fewer carlines, as that term is defined at 49 CFR 583.4, may, at the option of the manufacturer, meet the requirements of this paragraph instead of paragraph (a) of this section. Each vehicle manufactured on or after September 1, 2003 and before September 1, 2005 shall meet the requirements specified in S14.3, S15, S17, S19, S21, S23, S25, S30, and S32 (in addition to the other requirements specified in this standard).

(c) Each vehicle that is manufactured in two or more stages or that is altered (within the meaning of section 567.7 of

this chapter) after having previously been certified in accordance with Part 567 of this chapter is not subject to the requirements of S14.1.

(d) Vehicles manufactured by a manufacturer that produces fewer than 5,000 vehicles worldwide annually are not subject to the requirements of S14.1.

S14.1.1 *Phase-in schedule.*

S14.1.1.1 *Vehicles manufactured on or after September 1, 2002 and before September 1, 2003.* Subject to S14.1.2(a), for vehicles manufactured by a manufacturer on or after September 1, 2002 and before September 1, 2003, the amount of vehicles complying with S14.3, S15, S17, S19, S21, S23, S25, S30, and S32 shall be not less than 25 percent of:

(a) The manufacturer's average annual production of vehicles manufactured on or after September 1, 2000 and before September 1, 2003, or

(b) The manufacturer's production on or after September 1, 2002 and before September 1, 2003.

S14.1.1.2 *Vehicles manufactured on or after September 1, 2003 and before September 1, 2004.* Subject to S14.1.2(b), for vehicles manufactured by a manufacturer on or after September 1, 2003 and before September 1, 2004, the amount of vehicles complying with S14.3, S15, S17, S19, S21, S23, S25, S30, and S32 shall be not less than 40 percent of:

(a) The manufacturer's average annual production of vehicles manufactured on or after September 1, 2001 and before September 1, 2004, or

(b) The manufacturer's production on or after September 1, 2003 and before September 1, 2004.

S14.1.1.3 *Vehicles manufactured on or after September 1, 2004 and before September 1, 2005.* Subject to S14.1.2(c), for vehicles manufactured by a manufacturer on or after September 1, 2004 and before September 1, 2005, the amount of vehicles complying with S14.3, S15, S17, S19, S21, S23, S25, S30, and S32 shall be not less than 70 percent of:

(a) The manufacturer's average annual production of vehicles manufactured on or after September 1, 2002 and before September 1, 2005, or

(b) The manufacturer's production on or after September 1, 2004 and before September 1, 2005.

S14.1.2 *Calculation of complying vehicles.*

(a) For the purposes of complying with S14.1.1.1, a manufacturer may count a vehicle if it is manufactured on or after [the date 30 days after publication of the final rule would be inserted], but before September 1, 2003.

(b) For purposes of complying with S14.1.1.2, a manufacturer may count a vehicle if it:

(1) Is manufactured on or after [the date 30 days after publication of the final rule would be inserted], but before September 1, 2004, and

(2) Is not counted toward compliance with S14.1.1.1.

(c) For purposes of complying with S14.1.1.3, a manufacturer may count a vehicle if it:

(1) Is manufactured on or after [the date 30 days after publication of the final rule would be inserted], but before September 1, 2005, and

(2) Is not counted toward compliance with S14.1.1.1 or S14.1.1.2.

S14.1.3 *Vehicles produced by more than one manufacturer.*

S14.1.3.1 For the purpose of calculating average annual production of vehicles for each manufacturer and the number of vehicles manufactured by each manufacturer under S14.1.1, a vehicle produced by more than one manufacturer shall be attributed to a single manufacturer as follows, subject to S14.1.3.2.

(a) A vehicle which is imported shall be attributed to the importer.

(b) A vehicle manufactured in the United States by more than one manufacturer, one of which also markets the vehicle, shall be attributed to the manufacturer which markets the vehicle.

S14.1.3.2 A vehicle produced by more than one manufacturer shall be attributed to any one of the vehicle's manufacturers specified by an express written contract, reported to the National Highway Traffic Safety Administration under 49 CFR Part 585, between the manufacturer so specified and the manufacturer to which the vehicle would otherwise be attributed under S14.1.3.1.

S14.2 *Vehicles manufactured on or after September 1, 2005.* Each vehicle shall meet the requirements specified in S14.3, S15, S17, S19, S21, S23, S25, S30, and S32 (in addition to the other requirements specified in this standard).

S14.3 *Barrier test requirements using 50th percentile adult male dummies.*

S14.3.1 *Rigid barrier belted test.* Each vehicle that is certified as complying with S14 shall, at each front outboard designated seating position, meet the injury criteria specified in S6.1, S6.2(b), S6.3, S6.4(b), S6.5, and S6.6 when tested under S5.1.1. A vehicle shall not be deemed to be in noncompliance with this paragraph if its manufacturer establishes that it did not have reason to know in the exercise of due care that such vehicle is not in conformity with the requirements of this paragraph.

S14.3.2 *Rigid barrier unbelted test.* Each vehicle that is certified as complying with S14 shall comply with the requirements of S4.1.5.4 or S4.2.6.3 by means of an inflatable restraint system at the driver's and right front passenger's position that meets the injury criteria specified in S6.1, S6.2(b), S6.3, S6.4(b), S6.5, and S6.6 when tested under S5.1.2. A vehicle shall not be deemed to be in noncompliance with this paragraph if its manufacturer establishes that it did not have reason to know in the exercise of due care that such vehicle is not in conformity with the requirements of this paragraph.

S14.3.2 *Offset deformable barrier unbelted test.* Each vehicle that is certified as complying with S14 of this standard shall comply with the requirements of S4.1.5.4 or S4.2.6.3 that meets the injury criteria specified in S6.1, S6.2(b), S6.3, S6.4(b), S6.5, and S6.6 when tested under S5.4. A vehicle shall not be deemed to be in noncompliance with this paragraph if its manufacturer establishes that it did not have reason to know in the exercise of due care that such vehicle is not in conformity with the requirements of this paragraph.

S15 *Rigid barrier test requirements using 5th percentile adult female dummies.*

S15.1 *Belted test.* Each vehicle subject to S15 shall, at each front outboard designated seating position, meet the injury criteria specified in S15.3 of this standard when the vehicle is crash tested in accordance with the procedures specified in S16 of this standard with the anthropomorphic test dummy restrained by a Type 2 seat belt assembly. A vehicle shall not be deemed to be in noncompliance with this paragraph if its manufacturer establishes that it did not have reason to know in the exercise of due care that such vehicle is not in conformity with the requirements of this paragraph.

S15.2 *Unbelted test.* Each vehicle subject to S15 shall, at each front outboard designated seating position, meet the injury criteria specified in S15.3 of this standard when the vehicle is crash tested in accordance with the procedures specified in S16 of this standard with the anthropomorphic test dummy unbelted. A vehicle shall not be deemed to be in noncompliance with this paragraph if its manufacturer establishes that it did not have reason to know in the exercise of due care that such vehicle is not in conformity with the requirements of this paragraph.

S15.3 *Injury criteria (5th percentile adult female dummy).*

S15.3.1 *All portions of the test dummy shall be contained within the outer surfaces of the vehicle passenger compartment.*

S15.3.2 The resultant acceleration at the center of gravity of the head shall be such that the expression:

$$\left[\frac{1}{(t_2 - t_1)}\int_{t_1}^{t_2} a\,dt\right]^{2.5}(t_2 - t_1)$$

shall not exceed 700 where a is the resultant acceleration expressed as a multiple of g (the acceleration of gravity), and t_1 and t_2 are any two points in time during the crash of the vehicle which are separated by not more than a 15 millisecond time interval.

S15.3.3 The resultant acceleration calculated from the output of the thoracic instrumentation shown in drawing [a drawing incorporated by reference in Part 572 would be identified in the final rule] shall not exceed 60 g's, except for intervals whose cumulative duration is not more than 3 milliseconds.

S15.3.4 Compression deflection of the sternum relative to the spine, as determined by instrumentation shown in drawing [a drawing incorporated by reference in Part 572 would be identified in the final rule] shall not exceed 52 mm (2.0 inches).

S15.3.5 The force transmitted axially through each thigh shall not exceed 6805 N (1530 pounds).

S15.3.6 The biomechanical neck injury predictor, Nij, shall not exceed a value of 1.0 at any point in time. The following procedure shall be used to compute Nij. The axial force (Fz) and flexion/extension moment about the occipital condyles (My) shall be used to calculate four combined injury predictors, collectively referred to as Nij. These four combined values represent the probability of sustaining each of four primary types of cervical injuries; namely tension-extension (N_{TE}), tension-flexion (N_{TF}), compression-extension (N_{CE}), and compression-flexion (N_{CF}) injuries. Axial force shall be filtered at SAE class 1000 and flexion/extension moment (My) shall be filtered at SAE class 600. Shear force, which shall be filtered at SAE class 600, is used only in conjunction with the measured moment to calculate the effective moment at the location of the occipital condyles. The equation for calculating the Nij criteria is given by:

$N_{ij} = (Fz / Fzc) + (My / Myc)$

where Fzc and Myc are critical values corresponding to:

Fzc = 3370 N (758 lbf) for tension
Fzc = 3370 N (758 lbf) for compression
Myc = 155 Nm (114 lbf-ft) for flexion about occipital condyles
Myc = 62 Nm (46 lbf-ft) for extension about occipital condyles

Each of the four Nij values shall be calculated at each point in time, and all four values shall not exceed 1.0 at any point in time. When calculating N_{TE} and N_{TF}, all compressive loads shall be set to zero. Similarly, when calculating N_{CE} and N_{CF}, all tensile loads shall be set to zero. In a similar fashion, when calculating N_{TE} and N_{CE}, all flexion moments shall be set to zero. Likewise, when calculating N_{TF} and N_{CF}, all extension moments shall be set to zero.

S15.4 *Test duration for purpose of measuring injury criteria.* For tests conducted pursuant to S15 and S17, the injury criteria of S15.3 shall be met up to 300 milliseconds after the vehicle strikes the barrier. For tests conducted pursuant to S26, the injury criteria shall be met up to 100 milliseconds after the air bag deploys.

S16. *Test procedures for rigid barrier test requirements using 5th percentile adult female dummies.*

S16.1 *General provisions.* Crash testing to determine compliance with the requirements of S15 of this standard is conducted as specified in the following paragraphs (a) and (b).

(a) *Belted test.* Place a Part 572 Subpart O 5th percentile adult female test dummy at each front outboard seating position of a vehicle, in accordance with procedures specified in S16.3 of this standard, including S16.3.5. Impact the vehicle traveling longitudinally forward at any speed, up to and including 48 km/h (30 mph), into a fixed rigid barrier that is perpendicular within a tolerance of ± 5 degrees to the line of travel of the vehicle under the applicable conditions of S16.2 of this standard. The dummies shall meet the injury criteria specified in S15.3 of this standard.

(b) *Unbelted test.* Place a Part 572 Subpart O 5th percentile adult female test dummy at each front outboard seating position of a vehicle, in accordance with procedures specified in S16.3 of this standard, except S16.3.5. Impact the vehicle traveling longitudinally forward at any speed, from 29 km/h (18 mph) to 48 km/h (30 mph), inclusive, into a fixed rigid barrier that is perpendicular within a tolerance of ±5 degrees to the line of travel of the vehicle under the applicable conditions of S16.2 of this standard. The test dummies shall meet the injury criteria specified in S15.3 of this standard.

S16.2 *Test conditions.*

S16.2.1 The vehicle, including test devices and instrumentation, is loaded as in S8.1.1.

S16.2.2 Movable vehicle windows and vents are placed in the fully closed position, unless the vehicle manufacturer chooses to specify a different adjustment position prior to the time the vehicle is certified.

S16.2.3 Convertibles and open-body type vehicles have the top, if any, in place in the closed passenger compartment configuration.

S16.2.4 Doors are fully closed and latched but not locked.

S16.2.5 The dummy is clothed in form fitting cotton stretch garments with short sleeves and above the knee length pants. A size 8W shoe which meets the configuration and size specifications of MIL-S 13912 change ''P'' or its equivalent is placed on each foot of the test dummy.

S16.2.6 Limb joints are set at 1 g, barely restraining the weight of the limb when extended horizontally. Leg joints are adjusted with the torso in the supine position.

S16.2.7 Instrumentation shall not affect the motion of dummies during impact.

S16.2.8 The stabilized temperature of the dummy is at any level between 20° C and 22° C (68° F to 71.6° F).

S16.2.9 *Steering wheel adjustment.*

S16.2.9.1 Adjust a tiltable steering wheel, if possible, so that the steering wheel hub is at the geometric center when moved through its full range of driving positions.

S16.2.9.2 If there is no setting detent at the mid position, lower the steering wheel to the detent just below the mid position.

S16.2.9.3 If the steering column is telescoping, place the steering column as close as possible to the mid position.

S16.2.10 *Pedal adjustment.* If pedals can be adjusted, adjust them to the full rear position (towards the rear of the vehicle) or until the pedal makes contact with the feet as defined in S16.3.2.3.

S16.2.11 *Driver and passenger seat set-up.*

S16.2.11.1 *Seat position adjustment.*

S16.2.11.1.1 If a seat is adjustable in the fore and aft and/or vertical directions, move the seat to the forwardmost seat track position and full down vertical position.

S16.2.11.1.2 Establish a reference line on the seat pan in a horizontal plane.

S16.2.11.1.3 Measure and record the seat pan angle with respect to the reference line established in S16.2.11.1.2.

S16.2.11.1.4 Adjust the seat vertically to the mid-height position. If

possible, maintain the seat pan reference angle measured in the full down and full forward condition in S16.2.11.1.3.

S16.2.11.2 *Lumbar support adjustment.* Position adjustable lumbar supports so that the lumbar support is in its lowest, retracted or deflated adjustment position.

S16.2.11.3 *Side bolster adjustment.* Position adjustable seat cushion or seat back side bolsters so that they are in the lowest or most open adjustment position.

S16.3 *Dummy seating positioning procedures.* The Part 572 Subpart O 5th percentile adult female test dummy is positioned as follows.

S16.3.1 *General provisions and definitions.*

S16.3.1.1 All angles are measured with respect to the horizontal plane.

S16.3.1.2 The dummy's neck bracket is adjusted to align the zero degree index marks.

S16.3.1.3 The term ''midsagittal plane'' refers to the vertical plane that separates the dummy into equal left and right halves.

S16.3.1.4 The term ''vertical longitudinal plane'' refers to a vertical plane parallel to the vehicle's longitudinal centerline.

S16.3.1.5 The term ''vertical plane'' refers to a vertical plane, not necessarily parallel to the vehicle's longitudinal centerline.

S16.3.1.6 The term ''transverse instrumentation platform'' refers to the transverse instrumentation surface inside the dummy's skull casting to which the neck load cell mounts. This surface is perpendicular to the skull cap machined inferior superior mounting surface.

S16.3.1.7. The term ''thigh'' refers to the femur between, but not including, the knee and the pelvis.

S16.3.1.8 The term ''leg'' refers to the lower part of the entire leg including the knee.

S16.3.2 *Driver dummy positioning.*

S16.3.2.1 *Driver torso/head/seat back angle positioning.*

S16.3.2.1.1 Fully recline the seat back, if adjustable.

S16.3.2.1.2 Install the dummy into the driver's seat. If necessary, move the seat rearward to facilitate dummy installation. If the seat cushion angle automatically changes as the seat is moved from the full forward position, restore the correct seat cushion angle when measuring the pelvic angle as specified in S16.3.2.1.11.

S16.3.2.1.3 *Bucket seats.* Center the dummy on the seat cushion so that its midsagittal plane is vertical and coincides with the longitudinal center of the seat cushion.

S16.3.2.1.4 *Bench seats.* Position the midsagittal plane of the dummy vertical and parallel to the vehicle's longitudinal centerline and aligned with the center of the steering wheel rim.

S16.3.2.1.5 Hold the dummy's thighs down and push rearward on the upper torso until the dummy's pelvic angle measures 30–35 degrees. If it is not possible to achieve a pelvic angle of at least 30 degrees, maximize the dummy's pelvic angle.

S16.3.2.1.6 Place the legs at 90 degrees to the thighs. Push rearward on the dummy's knees to force the pelvis into the seat so there is no gap between the pelvis and the seat back or until contact occurs between the back of the dummy's calves and the front of the seat cushion such that the angle between the dummy's thighs and legs begins to change.

S16.3.2.1.7 Gently rock the upper torso relative to the lower torso laterally in a side to side motion three times through a ± 5 degree arc (approximately 51 mm (2 inches) side to side) to reduce friction between the dummy and the seat.

S16.3.2.1.8 Before proceeding, make sure that the seat has been returned to the full forward position if it has been moved from that location as specified in S16.3.2.1.2. Adjust legs if required.

S16.3.2.1.9 While holding the thighs in place, rotate the seat back forward until the transverse instrumentation platform of the head is level to within ± 0.5 degrees, making sure that the pelvis does not interfere with the seat bight. In addition, inspect the abdomen to insure that it is properly installed.

S16.3.2.1.10 If it is not possible to achieve the head level within ± 0.5 degrees, minimize the angle and continue to S16.3.2.1.11.

S16.3.2.1.11 Measure and set the dummy's pelvic angle using the pelvic angle gage (drawing TE–2504, incorporated by reference in Part 572, subpart O, of this chapter). The angle shall be set to within 20.0 degrees ± 2.5 degrees. If this is not possible, adjust the pelvic angle as close to 20.0 degrees ± 2.5 degrees as possible while keeping the transverse instrumentation platform of the head as level as possible as specified in S16.3.2.1.9 and S16.3.2.1.10.

S16.3.2.1.12. If the transverse instrumentation platform of the head is still not level, adjust the seat back angle to minimize the angle as much as possible.

S16.3.2.1.13 In vehicles with a fixed seat back, the lower neck bracket can be adjusted to level the head within ± 0.5 degrees or to minimize the angle as much as possible.

S16.3.2.2 *Driver thigh/knee/leg positioning.*

S16.3.2.2.1 Rest the dummy's thighs against the seat cushion to the extent permitted by the placement of the feet in S16.3.2.3.

S16.3.2.2.2 Set the initial transverse distance between the longitudinal centerline of the dummy's thighs at the knees at 160 to 170 mm (6.3 to 6.7 inches), with the thighs and legs of the dummy in vertical longitudinal planes.

S16.3.2.2.3. Move the dummy's right foot to the accelerator pedal by rotating the entire right thigh and leg at the dummy's hip joint while maintaining the dummy's torso setting.

S16.3.2.2.4 If either knee of the dummy is in contact with the vehicle interior, translate the thigh(s) and leg(s) at the hip joint inboard or outboard with respect to the dummy midsagittal plane until no contact occurs while maintaining the thigh and leg in a vertical plane.

S16.3.2.2.5 If contact still occurs, rotate the thigh(s) and leg(s) laterally at the hip joint with respect to the dummy midsagittal plane so that it is no longer in the vertical plane and no contact occurs.

S16.3.2.3 *Driver feet positioning.*

S16.3.2.3.1 Rest the right foot of the dummy on the undepressed accelerator pedal with the rearmost point of the heel on the floor pan in the plane of the pedal.

S16.3.2.3.2 If the ball of the foot does not contact the pedal, change the angle of the foot relative to the leg such that the toe of the foot contacts the undepressed accelerator pedal.

S16.3.2.3.3 If the foot still cannot contact the undepressed accelerator pedal, place the toe of the foot as close as possible to the pedal.

S16.3.2.3.4 Place the left foot on the toe board with the rearmost point of the heel resting on the floor pan as close as possible to the point of intersection of the planes described by the toe board and the floor pan.

S16.3.2.3.5 If the left foot cannot be positioned on the toe board, place the foot flat on the floor pan as far forward as possible.

S16.3.2.3.6 If the left foot does not contact the floor pan, place the foot parallel to the floor and place the leg as perpendicular to the thigh as possible.

S16.3.2.4 *Driver arm/hand positioning.*

S16.3.2.4.1 Place the dummy's upper arm adjacent to the torso with the arm centerlines as close to vertical as possible.

S16.3.2.4.2 Place the palms of the dummy in contact with the outer part of the steering wheel rim at its horizontal

centerline with the thumbs inside the steering wheel rim.

S16.3.2.4.3 If it is not possible to position the thumbs inside the steering wheel rim at its horizontal centerline, then position them above and as close to the horizontal centerline of the steering wheel rim as possible.

S16.3.2.4.4 Lightly tape the hands to the steering wheel rim so that if the hand of the test dummy is pushed upward by a force of not less than 9 N (2 pounds) and not more than 22 N (5 pounds), the tape releases the hand from the steering wheel rim.

S16.3.3 *Passenger dummy positioning.*

S16.3.3.1 *Passenger torso/head/seat back angle positioning.*

S16.3.3.1.1 Fully recline the seat back, if adjustable.

S16.3.3.1.2 Install the dummy into the passenger's seat. If necessary, move the seat rearward to facilitate dummy installation. If the seat cushion angle automatically changes as the seat is moved from the full forward position, restore the correct seat cushion angle when measuring the pelvic angle in S16.3.3.1.11.

S16.3.3.1.3 *Bucket seats.* Center the dummy on the seat cushion so that its midsagittal plane is vertical and coincides with the longitudinal center of the seat cushion.

S16.3.3.1.4 *Bench seats.* The midsagittal plane shall be vertical and parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as the midsaggital plane of the driver dummy.

S16.3.3.1.5 Hold the dummy's thighs down and push rearward on the upper torso until the dummy's pelvic angle measures 30–35 degrees. If it is not possible to achieve a pelvic angle of at least 30 degrees, maximize the dummy's pelvic angle.

S16.3.3.1.6 Place the legs at 90 degrees to the thighs. Push rearward on the dummy's knees to force the pelvis into the seat so there is no gap between the pelvis and the seat back or until contact occurs between the back of the dummy's calves and the front of the seat cushion such that the angle of the dummy's legs begins to change.

S16.3.3.1.7 Gently rock the upper torso relative to the lower torso laterally side to side three times through a ± 5 degree arc (approximately 51 mm (2 inches) side to side) to reduce friction between the dummy and the seat.

S16.3.3.1.8 Before proceeding, make sure that the seat has been returned to the full forward position if it had been moved from that location as specified in S16.3.3.1.2.

S16.3.3.1.9 While holding the thighs in place, rotate the seat back forward until the transverse instrumentation platform of the head is level to within ± 0.5 degrees, making sure that the pelvis does not interfere with the seat bite. In addition, inspect the abdomen to insure that it is properly installed.

S16.3.3.1.10 If it is not possible to achieve the head level within ± 0.5 degrees, minimize the angle and continue to S16.3.3.1.11.

S16.3.3.1.11 Measure and set the dummy's pelvic angle using the pelvic angle gage (drawing TE–2504, incorporated by reference in Part 572, Subpart O, of this chapter). The angle shall be set within 20.0 degrees ± 2.5 degrees. If this is not possible, adjust the pelvic angle as close to 20.0 degrees ± 2.5 degrees as possible while keeping the transverse instrumentation platform of the head as level as specified in S16.3.3.1.9 and S16.3.3.1.10.

S16.3.3.1.12 If the transverse instrumentation platform of the head is still not level, adjust the seat back angle to minimize the angle as much as possible.

S16.3.3.1.13 In vehicles with a fixed seat back, the lower neck bracket can be adjusted to level the head within ± 0.5 degrees or to minimize the angle as much as possible.

S16.3.3.2 *Passenger thigh/knee/leg positioning.*

S16.3.3.2.1 Rest the dummy's thighs against the seat cushion to the extent permitted by the placement of the feet in S16.3.3.3.

S16.3.3.2.2 Set the initial transverse distance between the longitudinal centerline of the dummy's thighs at the knees at 160 to 170 mm (6.3 to 6.7 inches), with the thighs and legs of the dummy in vertical longitudinal planes.

S16.3.3.2.3 If either knee of the dummy is in contact with the vehicle interior translate the thigh(s) and leg(s) at the hip joint inboard or outboard with respect to the dummy midsagittal plane until no contact occurs while maintaining the thigh and leg in a vertical plane.

S16.3.3.2.4 If contact still occurs, rotate the thigh(s) and leg(s) laterally at the hip joint with respect to the dummy midsagittal plane so that it is no longer in the vertical plane and no contact occurs.

S16.3.3.3 *Passenger feet positioning.*

S16.3.3.3.1 Place the passenger's feet flat on the floor pan as far forward as possible.

S16.3.3.3.2 If either foot does not entirely contact the floor pan, place the foot parallel to the floor and place the legs as perpendicular to the thighs as possible.

S16.3.3.4 *Passenger arm/hand positioning.*

S16.3.3.4.1 Place the dummy's upper arms in contact with the upper seat back and adjacent to the torso.

S16.3.3.4.2 Place the palms of the dummy in contact with the outside of the thigh.

S16.3.3.4.3 Place the little fingers in contact with the seat cushion.

S16.3.4 *Driver and passenger head restraint adjustment.*

S16.3.4.1. Place each adjustable head restraint so that the vertical center of the head restraint is aligned with the center of gravity (CG) of the dummy head.

S16.3.4.2 If the above position is not attainable, move the vertical center of the head restraint to the closest detent below the center of the head CG.

S16.3.4.3 If the head restraint has a fore and aft adjustment, place the restraint in the forwardmost position or until contact with the head is made.

S16.3.4.4 If the head restraint has an automatic adjustment, leave it where the system positions the restraint after the dummy is placed in the seat.

S16.3.5 *Driver and passenger manual belt adjustment (This applies only for tests conducted with a belted dummy.)*

S16.3.5.1 If an adjustable seat belt D-ring anchorage exists, place it in the full down position.

S16.3.5.2 Place the Type 2 manual belt around the test dummy and fasten the latch.

S16.3.5.3 Ensure that the dummy's head remains as level as possible, as specified in S16.3.2.1.9 and S16.3.2.1.10.

S16.3.5.4 Remove all slack from the lap belt. Pull the upper torso webbing out of the retractor and allow it to retract; repeat this operation four times. Apply a 9 N (2 pound force) to 18 N (4 pound force) tension load to the lap belt. If the belt system is equipped with a tension-relieving device, introduce the maximum amount of slack into the upper torso belt that is recommended by the manufacturer in the owner's manual for the vehicle. If the belt system is not equipped with a tension-relieving device, allow the excess webbing in the shoulder belt to be retracted by the retractive force of the retractor.

S17 *Offset frontal deformable barrier requirements using 5th percentile adult female dummies.*

S17.1 Each vehicle subject to S17 of this standard shall, at each front outboard designated seating position, meet the injury criteria specified in S15.3 of this standard when the vehicle

is crash tested in accordance with the procedures specified in S18.1(a) of this standard with the Part 572 Subpart O 5th percentile adult female test dummy restrained by a Type 2 seat belt assembly. A vehicle shall not be deemed to be in noncompliance with this paragraph if its manufacturer establishes that it did not have reason to know in the exercise of due care that such vehicle is not in conformity with the requirements of this paragraph.

S17.2 Each vehicle subject to S17 of this standard shall, at each front outboard designated seating position, meet the injury criteria specified in S15.3 of this standard when the vehicle is crash tested in accordance with the procedures specified in S18.1(b) of this standard with the dummy unbelted. A vehicle shall not be deemed to be in noncompliance with this paragraph if its manufacturer establishes that it did not have reason to know in the exercise of due care that such vehicle is not in conformity with the requirements of this paragraph.

S18 *Test procedure for offset frontal deformable barrier requirements using 5th percentile adult female dummies.*

S18.1 *General provisions.* Crash testing to determine compliance with the requirements of S17 of this standard is conducted as specified in the following paragraphs (a) and (b).

(a) *Belted test.* Place a Part 572 Subpart O 5th percentile adult female test dummy at each front outboard seating position of a vehicle, in accordance with procedures specified in S16.3 of this standard, including S16.3.5. Impact the vehicle traveling longitudinally forward at any speed, up to and including 40 km/h (25 mph), into a fixed offset deformable barrier under the conditions specified in S18.2 of this standard, impacting only the driver side of the vehicle. The dummies shall meet the injury criteria specified in S15.3 of this standard.

(b) *Unbelted test.* Place a Part 572 Subpart O 5th percentile adult female test dummy at each front outboard seating position of a vehicle, in accordance with procedures specified in S16.3 of this standard, but not including S16.3.5. Impact the vehicle traveling longitudinally forward at any speed, from 35.4 km/h (22 mph) to 56 km/h (35 mph), inclusive, into a fixed offset deformable barrier under the conditions specified in S18.2 of this standard. The dummies shall meet the injury criteria specified in S15.3 of this standard.

S18.2 *Test conditions.*

S18.2.1 *Offset frontal deformable barrier.* The offset frontal deformable barrier shall conform to the specifications set forth in Subpart B of Part 587 of this chapter.

S18.2.2 *General test conditions.* All of the test conditions specified in S16.2 of this standard apply.

S18.2.3 *Dummy seating procedures.* Position the anthropomorphic test dummies as specified in S16.3 of this standard.

S18.2.4 *Impact configuration.* The test vehicle shall impact the barrier with the longitudinal line of the vehicle parallel to the line of travel and perpendicular to the barrier face. The test vehicle shall be aligned so that the vehicle strikes the barrier with 40 percent overlap on either the left or right side of the vehicle, with the vehicle's width engaging the barrier face such that the vehicle's longitudinal centerline is offset outboard of the edge of the barrier face by 10 percent of the vehicle's width +/− 25 mm (1.0 inch) as illustrated in Figure 10. The vehicle width is defined as the maximum dimension measured across the widest part of the vehicle, including bumpers and molding but excluding such components as exterior mirrors, flexible mud flaps, marker lamps, and dual rear wheel configurations.

S19 *Requirements to provide protection for infants in rear facing child restraints.*

S19.1 Each vehicle shall, at the option of the manufacturer, meet the requirements specified in S19.2 or S19.3, under the test procedures specified in S20.

S19.2 *Option 1—Automatic suppression feature.* Each vehicle shall meet the requirements specified in S19.2.1 through S19.2.2.

S19.2.1 The vehicle shall be equipped with an automatic suppression feature for the passenger air bag which results in deactivation of the air bag during each of the static tests specified in S20.2 (using the Part 572 Subpart R 12-month-old CRABI child dummy restrained in any of the child restraints set forth in sections B and C of Appendix A to this section), and activation of the air bag during each of the static tests specified in S20.3 (using the Part 572 Subpart O 5th percentile Hybrid III adult female dummy).

S19.2.2 The vehicle shall be equipped with a mechanism that indicates whether the occupant restraint system is suppressed. The mechanism need not be located in the occupant compartment.

S19.2.3 The vehicle shall be equipped with a telltale light on the instrument panel which is illuminated whenever the passenger air bag is deactivated and not illuminated whenever the passenger air bag is activated, except that the telltale need not illuminate when the passenger seat is unoccupied. The telltale:

(a) Shall be clearly visible from all front seating positions;

(b) Shall be yellow;

(c) Shall have the identifying words ''PASSENGER AIR BAG OFF'' on the telltale or within 25 mm (1.0 inch) of the telltale; and

(d) Shall not be combined with the readiness indicator required by S4.5.2 of this standard.

S19.3 *Option 2—Low risk deployment.* Each vehicle shall meet the injury criteria specified in S19.4 of this standard when the passenger air bag is statically deployed in accordance with the procedures specified in S20.4 of this standard.

S19.4 *Injury criteria (12-month-old CRABI dummy).*

S19.4.1 All portions of the test dummy and child restraint shall be contained within the outer surfaces of the vehicle passenger compartment.

S19.4.2 The resultant acceleration at the center of gravity of the head shall be such that the expression:

$$\left[\frac{1}{(t_2 - t_1)}\int_{t_1}^{t_2} a\,dt\right]^{2.5}(t_2 - t_1)$$

shall not exceed 390 where a is the resultant acceleration expressed as a multiple of g (the acceleration of gravity), and t_1 and t_2 are any two points in time during the crash of the vehicle which are separated by not more than a 15 millisecond time interval.

S19.4.3 The resultant acceleration calculated from the output of the thoracic instrumentation shown in drawing [a drawing incorporated by reference in Part 572 would be identified in the final rule] shall not exceed 50 g's, except for intervals whose cumulative duration is not more than 3 milliseconds.

S19.4.4 The biomechanical neck injury predictor, Nij, shall not exceed a value of 1.0 at any point in time. The following procedure shall be used to compute Nij. The axial force (Fz) and flexion/extension moment about the occipital condyles (My) shall be used to calculate four combined injury predictors, collectively referred to as Nij. These four combined values represent the probability of sustaining each of four primary types of cervical injuries; namely tension-extension (N_{TE}), tension-flexion (N_{TF}), compression-extension (N_{CE}), and compression-flexion (N_{CF}) injuries. Axial force shall be filtered at SAE class 1000 and flexion/extension moment (My) shall be filtered at SAE class 600.

Shear force, which shall be filtered at SAE class 600, is used only in conjunction with the measured moment to calculate the effective moment at the location of the occipital condyles. The equation for calculating the Nij criteria is given by:

Nij = (Fz/Fzc) + (My/Myc)

where Fzc and Myc are critical values corresponding to:

Fzc = 1465 N (329 lbf) for tension
Fzc = 1465 N (329 lbf) for compression
Myc = 43 Nm (32 lbf-ft) for flexion about occipital condyles
Myc = 17 Nm (13 lbf-ft) for extension about occipital condyles

Each of the four Nij values shall be calculated at each point in time, and all four values shall not exceed 1.0 at any point in time. When calculating N_{TE} and N_{TF}, all compressive loads shall be set to zero. Similarly, when calculating N_{CE} and N_{CF}, all tensile loads shall be set to zero. In a similar fashion, when calculating N_{TE} and N_{CE}, all flexion moments shall be set to zero. Likewise, when calculating N_{TF} and N_{CF}, all extension moments shall be set to zero.

S19.4.5 *Test duration for purpose of measuring injury criteria.* For tests conducted pursuant to S20.4, the injury criteria shall be met up to 100 milliseconds after the air bag deploys.

S20 *Test procedure for S19.*

S20.1 *General provisions.* Tests specifying the use of a rear facing child restraint, a convertible child restraint, or car bed may be conducted using any such restraint listed in sections A, B, and C of Appendix A of this standard. The rear facing child restraint, convertible child restraint, or car bed may be unused or used; if used, there must not be any visible damage prior to the test.

S20.2 *Static tests of automatic suppression feature which must result in deactivation of the passenger air bag.*

S20.2.1 *Test one—belted rear facing and convertible child restraints.*

S20.2.1.1 Position the right front passenger vehicle seat at any seat track location, at any seat height, and at any seat back angle between the manufacturer's nominal design position for the 50th percentile adult male as specified in S8.1.3 and an additional 25 degrees in the rearward direction (inclusive).

S20.2.1.2 Tests in S20.2.1 may be conducted using any child restraint specified in section B or section C of Appendix A.

S20.2.1.3 If the child restraint is equipped with a handle, tests may be conducted with the handle at either the child restraint manufacturer's recommended position for use in vehicles or in the upright position.

S20.2.1.4 If the child restraint is equipped with a sunshield, tests may be conducted with the sunshield either fully open or fully closed.

S20.2.1.5 Tests may be conducted with the child restraint uncovered or with a towel or blanket weighing up to 1.0 kg (2.2 pounds) placed on or over the child restraint in any of the following positions:

(a) With the blanket covering the top and sides of the child restraint, or

(b) With the blanket placed from the top of the vehicle's seat back to the forwardmost edge of the child restraint.

S20.2.1.6 Locate a vertical plane through the longitudinal centerline of the child restraint. This will be referred to as ''Plane A''.

S20.2.1.7 Locate a vertical plane parallel to the vehicle longitudinal centerline through the geometric center of the right front passenger vehicle seat pan. This will be referred to as ''Plane B''. For vehicles with bench seats, locate a vertical plane parallel to the vehicle longitudinal centerline through the geometric center of the air bag cover. This will be referred to as ''Plane B''.

S20.2.1.8 *Facing rear.*

(a) Align the child restraint system facing rearward such that ''Plane A'' is aligned with ''Plane B''.

(b) While maintaining the child restraint position achieved in S20.2.1.8(a), secure the child restraint by following, to the extent possible, the child restraint manufacturer's directions regarding proper installation of the restraint in the rear facing mode.

(c) Cinch the vehicle belts to secure the child restraint in accordance with the procedures specified in Standard No. 213, except that any tension from zero up to 134 N (30 pounds) may be used.

(d) Position the Part 572 Subpart R 12-month-old CRABI dummy in the child restraint by following, to the extent possible, the manufacturer's instructions for seating infants provided with the child restraint.

(e) Start the vehicle engine and close all vehicle doors. Check whether the air bag is deactivated.

S20.2.1.9 *Facing forward (convertible restraints only*).

(a) Align the child restraint system facing forward such that ''Plane A'' is aligned with ''Plane B''.

(b) While maintaining the forward facing position achieved in S20.2.1.9(a), secure the child restraint by following, to the extent possible, the child restraint manufacturer's directions regarding proper installation of the restraint in the forward facing mode.

(c) Cinch the vehicle belts to secure the child restraint in accordance with the procedures specified in Standard No. 213, except that any tension from zero up to 134 N (30 pounds) may be used.

(d) Position the Part 572 Subpart R 12-month-old CRABI dummy in the child restraint by following, to the extent possible, the manufacturer's instructions for seating infants provided with the child restraint.

(e) Start the vehicle engine and close all vehicle doors. Check whether the air bag is deactivated.

S20.2.2 *Test two—unbelted rear facing and convertible child restraints.*

S20.2.2.1 Position the right front passenger vehicle seat at any seat track location, at any seat height, and at any seat back angle between the manufacturer's nominal design position for the 50th percentile adult male as specified in S8.1.3 and an additional 25 degrees in the rearward direction (inclusive).

S20.2.2.2 Tests in S20.2.2 may be conducted using any child restraint specified in section B or section C of Appendix A to this section.

S20.2.2.3 If the child restraint is equipped with a handle, tests may be conducted with the handle at either the child restraint manufacturer's recommended position for use in vehicles or in the upright position.

S20.2.2.4 If the child restraint is equipped with a sunshield, tests may be conducted with the sunshield either fully open or fully closed.

S20.2.2.5 Tests may be conducted with the child restraint uncovered or with a towel or blanket weighing up to 1.0 kg (2.2 pounds) placed on or over the child restraint in any of the following positions:

(a) With the blanket covering the top and sides of the child restraint, or

(b) With the blanket placed from the top of the vehicle's seat back to the forwardmost edge of the child restraint.

S20.2.2.6 Locate a vertical plane through the longitudinal centerline of the child restraint. This will be referred to as ''Plane A''.

S20.2.2.7 Locate a vertical plane parallel to the vehicle longitudinal centerline through the geometric center of the right front passenger vehicle seat pan. This will be referred to as ''Plane B''. For vehicles with bench seats, locate a vertical plane parallel to the vehicle longitudinal centerline through the geometric center of the air bag cover. This will be referred to as ''Plane B''.

S20.2.2.8 *Facing rear.*

(a) Align the child restraint system facing rearward such that ''Plane A'' is aligned with ''Plane B'' and adjust the forwardmost part of the child restraint

in ''Plane A'' at any angle up to 45 degrees from ''Plane B''.

(b) Position the Part 572 Subpart R 12-month-old CRABI dummy in the child restraint by following, to the extent possible, the manufacturer's instructions for seating infants provided with the child restraint.

(c) Start the vehicle engine and close all vehicle doors. Check whether the air bag is deactivated.

S20.2.2.9 *Facing forward.*

(a) Align the child restraint system facing forward such that ''Plane A'' is aligned with ''Plane B'' and adjust the forwardmost part of the child restraint in ''Plane A'' at any angle up to 45 degrees from ''Plane B''.

(b) Position the Part 572 Subpart R 12-month-old CRABI dummy in the child restraint by following, to the extent possible, the manufacturer's instructions for seating infants provided with the child restraint.

(c) Start the vehicle engine and close all vehicle doors. Check whether the air bag is deactivated.

S20.2.2.10 *Facing forward, tipped on instrument panel (convertible child restraints only).*

(a) Align the child restraint system facing forward such that ''Plane A'' is aligned with ''Plane B''.

(b) Position the Part 572 Subpart R 12-month-old CRABI dummy in the child restraint by following, to the extent possible, the manufacturer's instructions for seating infants provided with the child restraint.

(c) Tip the rearwardmost part of the child restraint forward toward the instrument panel, while keeping the bottom portion of the child seat in contact with the vehicle seat. Position the child restraint such that it rests against the instrument panel. If the child restraint cannot reach the instrument panel and remain in contact with the vehicle seat, move the vehicle seat forward until contact can be achieved.

(d) Start the vehicle engine and close all vehicle doors. Check whether the air bag is deactivated.

S20.2.3 *Test three-belted car bed.*

S20.2.3.1 Position the right front passenger vehicle seat at any seat track location, at any seat height, and at any seat back angle between the manufacturer's nominal design position for the 50th percentile adult male as specified in S8.1.3 and an additional 25 degrees in the rearward direction (inclusive).

S20.2.3.2 Tests may be conducted using any car bed specified in section A of Appendix A.

S20.2.3.3 If the car bed is equipped with a handle, tests may be conducted with the handle at either the child restraint manufacturer's recommended position for use in vehicles or in the upright position.

S20.2.3.4 If the car bed is equipped with a sunshield, tests may be conducted with the sunshield either fully open or fully closed.

S20.2.3.5 Tests may be conducted with the car bed uncovered or with a towel or blanket weighing up to 1.0 kg (2.2 pounds) placed on or over the child restraint in any of the following positions:

(a) With the blanket covering the top and sides of the car bed, or

(b) With the blanket placed from the top of the vehicle's seat back to the forwardmost edge of the car bed.

S20.2.3.6 *Nominal position*:

(a) Install the car bed by following to the extent possible the car bed manufacturer's directions regarding proper installation of the car bed.

(b) Cinch the vehicle belts to secure the child restraint in accordance with the procedures specified in Standard No. 213, except that any tension from zero up to 134 N (30 pounds) may be used.

(c) Position the Part 572 Subpart K newborn dummy in the car bed by following, to the extent possible, the car bed manufacturer's instructions for seating infants provided with the car bed.

(d) Start the vehicle engine and close all vehicle doors. Check whether the air bag is deactivated.

S20.3 *Static tests of automatic suppression feature which must result in activation of the passenger air bag.*

S20.3.1 Place the right front passenger vehicle seat at any seat track location, any seat height, and any seat back angle between the manufacturer's nominal design position for the 50th percentile adult male as specified in S8.1.3 and an additional 25 degrees in the rearward direction (inclusive).

S20.3.2 Place a Part 572 Subpart O 5th percentile adult female test dummy at the right front seating position of the vehicle, in accordance with procedures specified in S16.3 of this standard, to the extent possible with the seat position that has been selected pursuant to S20.3.1.

S20.3.3 Start the vehicle engine and then close all vehicle doors.

S20.3.4 Check whether the air bag is activated.

S20.4 *Low risk deployment test.*

S20.4.1 Position the right front passenger vehicle seat in the full forward seat track position, the highest seat position (if adjustment is available), and adjust the seat back to the nominal design position for a 50th percentile adult male dummy as specified by the vehicle manufacturer.

S20.4.2 Tests in S20.4 may be conducted using any child restraint specified in section B or section C of Appendix A.

S20.4.3 Locate a vertical plane through the longitudinal centerline of the child restraint. This will be referred to as ''Plane A''.

S20.4.4 Locate a vertical plane parallel to the vehicle longitudinal centerline through the geometric center of the air bag cover. This will be referred to as ''Plane B''.

S20.4.4 Align the child restraint system facing rearward such that ''Plane A'' is aligned with ''Plane B''.

S20.4.5 While maintaining the child restraint position achieved in S20.4.4, secure the child restraint by following, to the extent possible, the child restraint manufacturer's directions regarding proper installation of the restraint in the rear facing mode.

S20.4.6 Position the Part 572 subpart R 12-month-old CRABI dummy in the child restraint by following, to the extent possible, the manufacturer's instructions for seating infants provided with the child restraint.

S20.4.7 Deploy the right front passenger air bag system. If the air bag contains a multistage inflator, any stage or combination of stages may be fired that could deploy in the presence of an infant in a rear-facing child restraint positioned according to S20.2.1 or S20.2.2 in a rigid barrier crash test at speeds up to 64 km/h (40 mph).

S21 *Requirements using 3 year old child dummies.*

S21.1 Each vehicle shall, at the option of the manufacturer, meet the requirements specified in S21.2, S21.3, or S21.4 under the test procedures specified in S22.

S21.2 *Option 1—Automatic suppression feature that always suppresses the air bag when a child is present.* Each vehicle shall meet the requirements specified in S21.2.1 through S21.2.2.

S21.2.1 The vehicle shall be equipped with an automatic suppression feature for the passenger air bag which results in deactivation of the air bag during each of the static tests specified in S22.2 (using a child or a Part 572 Subpart P Hybrid III 3-year-old child dummy), and activation of the air bag during each of the static tests specified in S20.3 (using a female or a Part 572 Subpart O Hybrid III 5th percentile adult female dummy).

S21.2.2 The vehicle shall be equipped with a mechanism that indicates whether the occupant restraint system is suppressed. The mechanism

need not be located in the occupant compartment.

S21.2.3 The vehicle shall be equipped with a telltale light on the instrument panel meeting the requirements specified in S19.2.3.

S21.3 *Option 2—Dynamic automatic suppression system that suppresses the air bag when an occupant is out of position.* (This option is available under the conditions set forth in S27.1.) The vehicle shall be equipped with a dynamic automatic suppression system for the passenger air bag which meets the requirements specified in S27.

S21.4 *Option 3—Low risk deployment.* Each vehicle shall meet the injury criteria specified in S21.5 of this standard when the passenger air bag is statically deployed in accordance with the low risk deployment test procedures specified in S22.3.

S21.5 *Injury criteria for Hybrid III 3-year-old child dummy.*

S21.5.1 All portions of the test dummy shall be contained within the outer surfaces of the vehicle passenger compartment.

S21.5.2 The resultant acceleration at the center of gravity of the head shall be such that the expression:

$$\left[\frac{1}{(t_2 - t_1)}\int_{t_1}^{t_2} a\,dt\right]^{2.5}(t_2 - t_1)$$

shall not exceed 570 where a is the resultant acceleration expressed as a multiple of g (the acceleration of gravity), and t_1 and t_2 are any two points in time during the crash of the vehicle which are separated by not more than a 15 millisecond time interval.

S21.5.3 The resultant acceleration calculated from the output of the thoracic instrumentation shown in drawing [a drawing incorporated by reference in Part 572 would be identified in the final rule] shall not exceed 55 g's, except for intervals whose cumulative duration is not more than 3 milliseconds.

S21.5.4 Compression deflection of the sternum relative to the spine, as determined by instrumentation shown in drawing [a drawing incorporated by reference in Part 572 would be identified in the final rule] shall not exceed 34 millimeters (1.3 inches).

S21.5.5 The biomechanical neck injury predictor, Nij, shall not exceed a value of 1.0 at any point in time. The following procedure shall be used to compute Nij. The axial force (Fz) and flexion/extension moment about the occipital condyles (My) shall be used to calculate four combined injury predictors, collectively referred to as Nij. These four combined values represent the probability of sustaining each of four primary types of cervical injuries; namely tension-extension (N_{TE}), tension-flexion (N_{TF}), compression-extension (N_{CE}), and compression-flexion (N_{CF}) injuries. Axial force shall be filtered at SAE class 1000 and flexion/extension moment (My) shall be filtered at SAE class 600. Shear force, which shall be filtered at SAE class 600, is used only in conjunction with the measured moment to calculate the effective moment at the location of the occipital condyles. The equation for calculating the Nij criteria is given by:

Nij=(Fz/Fzc)+(My/Myc)

where Fzc and Myc are critical values corresponding to:

Fzc=2120 N (477 lbf) for tension
Fzc=2120 N (477 lbf) for compression
Myc=68 Nm (50 lbf-ft) for flexion about occipital condyles
Myc=27 Nm (20 lbf-ft) for extension about occipital condyles

Each of the four Nij values shall be calculated at each point in time, and all four values shall not exceed 1.0 at any point in time. When calculating N_{TE} and N_{TF}, all compressive loads shall be set to zero. Similarly, when calculating N_{CE} and N_{CF}, all tensile loads shall be set to zero. In a similar fashion, when calculating N_{TE} and N_{CE}, all flexion moments shall be set to zero. Likewise, when calculating N_{TF} and N_{CF}, all extension moments shall be set to zero.

S21.5.5 *Test duration for purpose of measuring injury criteria.* For tests conducted pursuant to S22.3, the injury criteria shall be met up to 100 milliseconds after the air bag deploys.

S22 *Test procedure for S21.*

S22.1 *General provisions and definitions.*

S22.1.1 Tests specifying the use of a forward-facing child seat or booster seat may be conducted using any such seat listed in section C and section D of Appendix A of this standard. The child restraint may be unused or used; if used, there must not be any visible damage prior to the test.

S22.1.2 The definitions provided in S16.3.1 apply to the tests specified in S22.

S22.2 *Static tests of automatic suppression feature which must result in deactivation of the passenger air bag when a child is present.*

S22.2.1 *Test one—child in a forward-facing child seat or booster seat.*

S22.2.1.1 Position the right front passenger vehicle seat at any seat track location, at any seat height, and at any seat back angle between the manufacturer's nominal design position for the 50th percentile adult male as specified in S8.1.3.

S22.2.1.2 Install the forward-facing child seat or booster seat in the right front passenger seat in accordance, to the extent possible, with the child restraint manufacturer's instructions provided with the seat.

S22.2.1.3 Cinch the vehicle belts to secure the child restraint in accordance with the procedures specified in Standard No. 213, except that any tension from zero up to 134 N (30 pounds) may be used.

S22.2.1.4 Position the Part 572 Subpart P Hybrid III 3-year-old child dummy seated in the forward-facing child seat or booster seat such that the dummy's lower torso is centered on the forward-facing child seat or booster seat cushion and the dummy's spine is parallel to the forward-facing child seat or booster seat back or, if there is no booster seat back, the vehicle seat back. Place the lower arms at the dummy's side.

S22.2.1.5 Attach all appropriate forward-facing child seat or booster seat belts, if any, by following, to the extent possible, the manufacturer's instructions for seating children provided with the child restraint.

S22.2.1.6 Start the vehicle engine and then close all vehicle doors.

S22.2.1.7 Check whether the air bag is deactivated.

S22.2.2 *Test two—unbelted child.*

S22.2.2.1 Position the right front passenger vehicle seat at any seat track location, at any seat height, and at any seat back angle between the manufacturer's nominal design position for the 50th percentile adult male as specified in S8.1.3.

S22.2.2.2 Place the Part 572 Hybrid III 3-year old child dummy on the right front passenger seat in any of the following positions (without using a forward-facing child restraint or booster seat or the vehicle's seat belts):

(a) *Sitting on seat with back against seat.*

(1) Position the dummy in the seated position and place it on the right front passenger seat.

(2) Position the upper torso of the dummy against the seat back. In the case of vehicles equipped with bench seats, position the midsagittal plane of the dummy vertically and parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as the center of the steering wheel rim. In the case of vehicles equipped with bucket seats, position the midsagittal plane of the dummy vertically such that it coincides with the longitudinal centerline of the

bucket seat. Position the dummy's thighs against the seat cushion.

(3) Allow the legs of the dummy to extend off the surface of the seat. If this positioning of the dummy's legs is prevented by contact with the instrument panel, rotate the leg toward the floor until there is no contact with the instrument panel.

(4) Rotate the dummy's upper arms down until they contact the seat.

(5) Rotate the dummy's lower arms until the dummy's hands contact the seat.

(6) Start the vehicle engine and then close all vehicle doors.

(7) Check whether the air bag is deactivated.

(b) *Sitting on seat with back not against seat:*

(1) Position the dummy in the seated position and place it on the right front passenger seat.

(2) In the case of vehicles equipped with bench seats, position the midsagittal plane of the dummy vertically and parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as the center of the steering wheel rim. In the case of vehicles equipped with bucket seats, position the midsagittal plane of the dummy vertically such that it coincides with the longitudinal centerline of the bucket seat. Position the dummy so that the horizontal distance from the dummy's back to the seat back is no less than 25 mm (1 inch) and no more than 150 mm (6 inches), as measured from the dummy's mid-sagittal plane at the mid-sternum level.

(3) Position the dummy's femurs against the seat cushion.

(4) Allow the legs of the dummy to extend off the surface of the seat. If this positioning the dummy's legs is prevented by contact with the instrument panel, rotate the leg toward the floor until there is no contact with the instrument panel.

(5) Rotate the dummy's lower arms until the dummy's hands contact the seat.

(6) Start the vehicle engine and then close all vehicle doors.

(7) Check whether the air bag is deactivated.

(c) *Sitting on seat edge, spine vertical, hands by the dummy's side*:

(1) In the case of vehicles equipped with bench seats, position the midsagittal plane of the dummy vertically and parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as the center of the steering wheel rim. In the case of vehicles equipped with bucket seats, position the midsagittal plane of the dummy vertically such that it coincides with the longitudinal centerline of the bucket seat. Position the dummy in the seated position and place it on the right front passenger seat with the dummy's legs positioned 90 degrees (*i.e.*, right angle) from the horizontal.

(2) Position the dummy forward in the seat such that the legs rest against the front of the seat with the spine in the vertical direction. If the dummy's feet contact the floorboard, rotate the legs forward until the dummy is resting on the seat with the feet positioned flat on the floorboard and the dummy spine vertical.

(3) Extend the dummy's arms directly in front of the dummy parallel to the floor of the vehicle.

(4) Lower the dummy's arms such that they contact the seat.

(5) Start the vehicle engine and then close all vehicle doors.

(6) Check whether the air bag is deactivated.

(d) *Standing on seat, facing forward:*

(1) Position the dummy in the standing position. The arms may be at any position.

(2) In the case of vehicles equipped with bench seats, position the midsagittal plane of the dummy vertically and parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as the center of the steering wheel rim. In the case of vehicles equipped with bucket seats, position the midsagittal plane of the dummy vertically such that it coincides with the longitudinal centerline of the bucket seat. Position the dummy on the right front passenger seat cushion facing the front of the vehicle while placing the heels of the dummy feet in contact with the seat back.

(3) Rest the dummy against the seat back.

(4) Start the vehicle engine and then close all vehicle doors.

(5) Check whether the air bag is deactivated.

(e) *Kneeling on seat, facing forward*:

(1) Position the dummy in a kneeling position by rotating the dummy's legs 90 degrees behind the dummy (from the standing position).

(2) In the case of vehicles equipped with bench seats, position the midsagittal plane of the dummy vertically and parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as the center of the steering wheel rim. In the case of vehicles equipped with bucket seats, position the midsagittal plane of the dummy vertically such that it coincides with the longitudinal centerline of the bucket seat. Position the kneeling dummy in the right front passenger seat with the dummy facing the front of the vehicle. Position the dummy such that the dummy's toes are in contact with the seat back. The arms may be at any position.

(3) Start the vehicle engine and then close all vehicle doors.

(4) Check whether the air bag is deactivated.

(f) *Kneeling on seat, facing rearward*:

(1) Position the dummy in a kneeling position by rotating the dummy's legs 90 degrees behind the dummy (from the standing position).

(2) In the case of vehicles equipped with bench seats, position the midsagittal plane of the dummy vertically and parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as the center of the steering wheel rim. In the case of vehicles equipped with bucket seats, position the midsagittal plane of the dummy vertically such that it coincides with the longitudinal centerline of the bucket seat. Position the kneeling dummy in the right front passenger seat with the dummy facing the rear of the vehicle. Position the dummy such that the dummy's head is in contact with the seat back. The arms may be at any position.

(3) Start the vehicle engine and then close all vehicle doors.

(4) Check whether the air bag is deactivated.

(g) *Lying on seat*:

(1) Lay the dummy on the right front passenger seat such that the following criteria are met:

(i) The mid-sagittal plane of the dummy is horizontal,

(ii) The dummy's spine is perpendicular to the vehicle longitudinal axis,

(iii) The dummy's upper arms are parallel to its spine,

(iv) A plane passing through the two shoulder joints of the dummy is vertical and intersects the geometric center of the seat bottom (the seat bottom is the plan view part of the seat from the forward most part of the seat back to the forward most part of the seat),

(v) The anterior of the dummy is facing the vehicle front, and the head is positioned towards the passenger door, and

(vi) Leg position is not set and can be articulated to fit above conditions.

(2) If the top of the dummy's head is not within 50 to 100 mm (2-4 inches) of the vehicle side door structure, translate the dummy laterally so that the top of the dummy head is 50 to 100 mm (2-4 inches) from the vehicle door structure.

(3) Rotate the thighs toward the chest of the dummy and rotate the legs against the thighs.

(4) Place the dummy's upper left arm parallel to the vehicle's transverse plane and the lower arm 90 degrees to the upper arm. Rotate the left lower arm down about the elbow joint until movement is obstructed. The final position should resemble a fetal position.

(5) Start the vehicle engine and then close all vehicle doors.

(6) Check whether the air bag is deactivated.

(h) *Low risk deployment test position 1.*

(1) Position the dummy in accordance with the position set forth in S22.3.2.

(2) Start the vehicle engine and then close all vehicle doors.

(3) Check whether the air bag is deactivated.

(i) *Sitting on seat edge, head contacting the mid-face of the instrument panel.*

(1) Locate and mark the center point of the dummy's rib cage or sternum plate. (The vertical mid-point on the mid-sagittal plane of the frontal chest plate of the dummy). This will be referred to as ''Point A.''

(2) Locate the point on the air bag module cover that is the geometric center of the air bag module cover. This will be referred to as ''Point B''.

(3) Locate the horizontal plane that passes through Point B. This will be referred to as ''Plane 1''.

(4) ''Plane 2'' is defined as the vertical plane which passes through Point B and is parallel to the vehicle's longitudinal axis.

(5) Move the passenger seat to the full rearward seating position.

(6) Place the dummy in the front passenger seat such that:

(i) Point A is located in Plane 2.

(ii) A vertical plane through the shoulder joints of the dummy is 90 degrees to the longitudinal axis of the vehicle.

(iii) The legs are positioned 90 degrees (right angle) from horizontal.

(iv) The dummy is positioned forward in the seat such that the legs rest against the front of the seat and such that the dummy's upper spine plate is vertical.

(7) Rotate the dummy's torso by applying a force towards the front of the vehicle on the spine of the dummy between the shoulder joints. Continue applying force until the head C.G. is in Plane 1, or the spine angle at the upper spine plate is 45 degrees, whichever produces the greatest rotation.

(8) Move the seat forward until the dummy comes in contact with the forward structure of the vehicle, or the seat is full forward, whichever occurs first.

(9) To keep the dummy in position, a thread with a maximum breaking strength of 311 N (70 pounds) that does not interfere with the suppression device may be used to hold the dummy.

(10) Start the vehicle engine and then close all vehicle doors.

(11) Check whether the air bag is deactivated.

S22.3 *Low risk deployment test (Hybrid III 3-year-old child dummy).*

S22.3.1 Position the dummy according to any of the following positions: Position 1 (S22.3.2) or Position 2 (S22.3.3).

S22.3.2 *Position 1 (chest on instrument panel).*

S22.3.2.1 Locate and mark the center point of the dummy's chest/rib plate (the vertical mid-point on the mid-sagittal plane of the frontal chest plate of the dummy). This will be referred to as ''Point A.''

S22.3.2.2 Locate the point on the air bag module cover that is the geometric center of the air bag module cover. This is referred to as ''Point B.''

S22.3.2.3 Locate the horizontal plane that passes through Point B. This will be referred to as ''Plane 1.''

S22.3.2.4 Locate the vertical plane parallel to the vehicle longitudinal axis and passing through Point B. This will be referred to as ''Plane 2.''

S22.3.2.5 Move the passenger seat to the full rearward seating position. Place the seat back in the nominal design position for a 50th percentile adult male dummy (S8.1.3) as specified by the vehicle manufacturer.

S22.3.2.6 Place the dummy in the front passenger seat such that:

S22.3.2.6.1 Point A is located in Plane 2.

S22.3.2.6.2 A vertical plane through the dummy shoulder joints is at 90 degrees to the longitudinal axis of the vehicle.

S22.3.2.6.3 The legs are positioned 90 degrees to the thighs.

S22.3.2.6.4 The dummy is positioned forward in the seat such that the dummy's upper spine plate is vertical, and the legs rest against the front of the seat.

S22.3.2.7 Move the dummy forward until the upper torso or head of the dummy makes contact with the instrument panel of the vehicle.

S22.3.2.8 Once contact is made, raise the dummy vertically until Point A lies within Plane 1 (the vertical height to the center of the air bag) or until a minimum clearance of 6 mm (0.25 inches) between the dummy head and the windshield is attained. If additional height is required, the dummy may be raised with the use of spacers (foam blocks, etc.) placed on the floor of the vehicle.

S22.3.2.9 Position the upper arms parallel to the spine and rotate the lower arms forward (at the elbow joint) sufficiently to prevent contact with or support from the seat.

S22.3.2.10 Position the lower limbs of the dummy so that the feet rest flat on the floorboard (or the feet are positioned parallel to the floorboard) of the vehicle and the legs are vertical. If necessary, raise the dummy vertically with the use of spacers (foam blocks, etc.) placed on the floor of the vehicle.

S22.3.2.11 Support the dummy so that there is minimum interference with the full rotational and translational freedom for the upper torso of the dummy.

S22.3.2.12 If necessary, tether the upper torso with a thread with a maximum breaking strength of 311 N (70 pounds) such that the tether is not situated in the air bag deployment envelope.

S22.3.3 Position 2 (head on instrument panel).

S22.3.3.1 Locate and mark the center point of the dummy's chest/rib plate (the vertical mid-point on the mid-sagittal plane of the frontal chest plate of the dummy). This will be referred to as ''Point A.''

S22.3.3.2 Locate the point on the air bag module cover that is the geometric center of the air bag module cover. This will be referred to as ''Point B.''

S22.3.3.3 Locate the vertical plane which passes through Point B and is parallel to the vehicle longitudinal axis. This will be referred to as ''Plane 2.''

S22.3.3.4 Move the passenger seat to the full rearward seating position. Place the seat back in the nominal design position for a 50th percentile adult male (S8.1.3) as specified by the vehicle manufacturer.

S22.3.3.4 Place the dummy in the front passenger seat such that:

S22.3.3.4.1 Point A is located in Plane 2.

S22.3.3.4.2 A vertical plane through the shoulder joints of the dummy is at 90 degrees to the longitudinal axis of the vehicle.

S22.3.3.4.3 The legs are positioned 90 degrees (right angle) from horizontal.

S22.3.3.4.4 The dummy is positioned forward in the seat such that the legs rest against the front of the seat and such that the dummy's upper spine plate is from vertical. Note: For some seats, it may not be possible to position the dummy with the legs in the prescribed position. In this situation, rotate the legs forward until the dummy is resting on the seat with the feet

positioned flat on the floorboard and the dummy's upper spine plate is vertical.

S22.3.3.5 Move the seat forward, while maintaining the upper spine plate orientation until some portion of the dummy contacts the vehicle's instrument panel.

S22.3.3.5.1 If contact has not been made with the vehicle's instrument panel at the full forward seating position of the seat, slide the dummy forward on the seat until contact is made. Maintain the upper spine plate orientation.

S22.3.3.5.2 Once contact is made, rotate the dummy forward until the head and/or upper torso are in contact with the vehicle's instrument panel. Rotation is achieved by applying a force towards the front of the vehicle on the spine of the dummy between the shoulder joints.

S22.3.3.5.3 Rotate the thighs downward and rotate the legs and feet rearward (toward the rear of vehicle) so as not to impede the rotation of the head/torso into the vehicle's instrument panel.

S22.3.3.5.4 Reposition the legs so that the feet rest flat on (or parallel to) the floorboard with each ankle joint positioned as nearly as possible to the midsaggital plane of the dummy.

S22.3.3.5.5 If necessary, tether the upper torso with a thread with a maximum breaking strength of 311 N (70 pounds) and/or place a wedge under the dummy's pelvis. The tether may not be situated in the air bag deployment envelope. Note: If contact with the instrument panel cannot be made by sliding the dummy forward in the seat, then place the dummy in the forward-most position on the seat that will allow the head/upper torso to rest against the instrument panel of the vehicle.

S22.3.3.6 Position the upper arms parallel to the upper spine plate and rotate the lower arm forward sufficiently to prevent contact with or support from the seat.

S22.3.4 Deploy the right front passenger air bag. If the air bag contains a multistage inflator, any stage or combination of stages may be fired that could deploy in crashes at or below 29 km/h (18 mph), under the test procedure specified in S22.4.

S22.4 *Test procedure for determining stages of air bags subject to low risk deployment test requirement.* In the case of an air bag with a multistage inflator, any stage or combination of stages that fires in the following rigid barrier test may be deployed when conducting the low risk deployment tests described in S22.3, S24.4, and S26.3. Impact the vehicle traveling longitudinally forward at any speed, up to and including 29 km/h (18 mph), into a fixed rigid barrier that is perpendicular ±5 degrees to the line of travel of the vehicle under the applicable conditions of S8 of this standard.

S23 *Requirements using 6-year-old child dummies.*

S23.1 Each vehicle shall, at the option of the manufacturer, meet the requirements specified in S23.2, S23.3, or S23.4, under the test procedures specified in S24.

S23.2 *Option 1—Automatic suppression feature that always suppresses the air bag when a child is present.* Each vehicle shall meet the requirements specified in S23.2.1 through S23.2.2.

S23.2.1 The vehicle shall be equipped with an automatic suppression feature for the passenger air bag which results in deactivation of the air bag during each of the static tests specified in S24.2 (using a Part 572 Subpart N Hybrid III 6-year-old child dummy), and activation of the air bag during each of the static tests specified in S20.3 (using a Part 572 Subpart O Hybrid III 5th percentile adult female dummy).

S23.2.2 The vehicle shall be equipped with a mechanism that indicates whether the occupant restraint system is suppressed. The mechanism need not be located in the occupant compartment.

S23.2.3 The vehicle shall be equipped with a telltale light on the instrument panel meeting the requirements specified in S19.2.3.

S23.3 *Option 2— Dynamic automatic suppression system that suppresses the air bag when an occupant is out of position.* (This option is available under the conditions set forth in S27.1.) The vehicle shall be equipped with a dynamic automatic suppression system for the passenger air bag which meets the requirements specified in S27.

S23.4 *Option 3—Low risk deployment.* Each vehicle shall meet the injury criteria specified in S23.5 of this standard when the passenger air bag is statically deployed in accordance with the procedures specified in S24.3.

S23.5 *Injury criteria (Hybrid III 6-year-old child dummy).*

S23.5.1 All portions of the test dummy shall be contained within the outer surfaces of the vehicle passenger compartment.

S23.5.2 The resultant acceleration at the center of gravity of the head shall be such that the expression:

$$\left[\frac{1}{(t_2 - t_1)}\int_{t_1}^{t_2} a\,dt\right]^{2.5}(t_2 - t_1)$$

shall not exceed 700 where a is the resultant acceleration expressed as a multiple of g (the acceleration of gravity), and t_1 and t_2 are any two points in time during the crash of the vehicle which are separated by not more than a 15 millisecond time interval.

S23.5.3 The resultant acceleration calculated from the output of the thoracic instrumentation shown in drawing [a drawing incorporated by reference in Part 572 would be identified in the final rule] shall not exceed 60 g's, except for intervals whose cumulative duration is not more than 3 milliseconds.

S23.5.4 Compression deflection of the sternum relative to the spine, as determined by instrumentation [a drawing incorporated by reference in Part 572 would be identified in the final rule] shall not exceed 40 mm (1.6 inches).

S23.5.5 The biomechanical neck injury predictor, Nij, shall not exceed a value of 1.0 at any point in time. The following procedure shall be used to compute Nij. The axial force (Fz) and flexion/extension moment about the occipital condyles (My) shall be used to calculate four combined injury predictors, collectively referred to as Nij. These four combined values represent the probability of sustaining each of four primary types of cervical injuries; namely, tension-extension (N_{TE}), tension-flexion (N_{TF}), compression-extension (N_{CE}), and compression-flexion (N_{CF}) injuries. Axial force shall be filtered at SAE class 1000 and flexion/extension moment (My) shall be filtered at SAE class 600. Shear force, which shall be filtered at SAE class 600, is used only in conjunction with the measured moment to calculate the effective moment at the location of the occipital condyles. The equation for calculating the Nij criteria is given by:

Nij=(Fz/Fzc)+(My/Myc)

where Fzc and Myc are critical values corresponding to:

Fzc=2800 N (629 lbf) for tension

Fzc=2800 N (629 lbf) for compression

Myc=93 Nm (69 lbf-ft) for flexion about occipital condyles

Myc=39 Nm (29 lbf-ft) for extension about occipital condyles

Each of the four Nij values shall be calculated at each point in time, and all four values shall not exceed 1.0 at any point in time. When calculating N_{TE} and N_{TF}, all compressive loads shall be set to zero. Similarly, when calculating N_{CE}

and N_{CF}, all tensile loads shall be set to zero. In a similar fashion, when calculating N_{TE} and N_{CE}, all flexion moments shall be set to zero. Likewise, when calculating N_{TF} and N_{CF}, all extension moments shall be set to zero.

S23.5.6 *Test duration for purpose of measuring injury criteria.* For tests conducted pursuant to S23.5, the injury criteria shall be met up to 100 milliseconds after the air bag deploys.

S24 *Test procedure for S23.*

S24.1 *General provisions and definitions.* Tests specifying the use of a forward-facing child seat or booster seat may be conducted using any seat listed in Section D of Appendix A of this standard. The seat may be used or unused; if used there must not be any visible damage.

S24.1.2 The definitions provided in S16.3.1 apply to the tests specified in S24.

S24.2 *Static tests of automatic suppression feature which must result in deactivation of the passenger air bag when a child is present.*

S24.2.1 Except as provided in S24.2.2, all tests specified in S22.2 shall be conducted using the 6-year-old Hybrid III child dummy.

S24.2.2 *Exceptions.* The tests specified in the following paragraphs of S22.2 shall not be conducted using the 6-year-old Hybrid III child dummy: S22.2.2.2(d), (e), (f), (g), and (h).

S24.2.3 *Sitting back in the seat and leaning on the right front passenger door (This test is conducted using the 6-year-old Hybrid III child dummy but not the 3-year-old Hybrid III child dummy).*

(a) Position the right front passenger vehicle seat at any seat track location, at any seat height, and at any seat back angle between the manufacturer's nominal design position for the 50th percentile adult male as specified in S8.1.3.

(b) Position the dummy in the seated position and place the dummy in the right front passenger seat.

(c) Place the dummy's lower torso on the outboard portion of the seat with the dummy's back against the seat back and the dummy's thighs resting on the seat cushion.

(d) Allow the legs of the dummy to extend off the surface of the seat. If this positioning of the dummy's legs is prevented by contact with the instrument panel, rotate the leg toward the floor until there is no contact with the instrument panel.

(e) Rotate the dummy's upper arms toward the seat back until they make contact.

(f) Rotate the dummy's lower arms down until they contact the seat.

(g) Lean the dummy against the outboard door.

(h) Close the vehicle's passenger-side vehicle and then start the vehicle engine; close all remaining doors.

(i) Check whether the air bag is deactivated.

S24.3 *Low risk deployment test (Hybrid III 6-year old child dummy).*

S24.3.1 Position the dummy according to any of the following positions: Position 1 (S24.3.2) or Position 2 (S24.3.3).

S24.3.2 *Position 1 (chest on instrument panel).*

S24.3.2.1 Locate and mark the center point of the dummy's rib cage or sternum plate (the vertical mid-point on the mid-sagittal plane of the frontal chest plate of the dummy). This will be referred to as ''Point A.''

S24.3.2.2 Locate the point on the air bag module cover that is the geometric center of the air bag module cover. This will be referred to as ''Point B.''

S24.3.2.3 Locate the horizontal plane that passes through Point B. This will be referred to as ''Plane 1.''

S24.3.2.4 Locate the vertical plane parallel to the vehicle longitudinal axis and passing through Point B. This will be referred to as ''Plane 2.''

S24.3.2.5 Position the right front passenger vehicle seat at any seat track location, at any seat height, and at any seat back angle between the manufacturer's nominal design position for the 50th percentile adult male as specified in S8.1.3.

S24.3.2.6 Place the dummy in the front passenger seat such that:

S24.3.2.6.1 Point A is located in Plane 2.

S24.3.2.6.2 A vertical plane through the dummy shoulder joints is at 90 degrees to the longitudinal axis of the vehicle.

S24.3.2.6.3 The legs are positioned 90 degrees to the thighs.

S24.3.2.6.4 The dummy is positioned forward in the seat such that the dummy's upper spine plate is 6 degrees forward (toward the front of the vehicle) of the vertical position, and the legs rest against the front of the seat or the feet are resting flat on the floorboard of the vehicle.

S24.3.2.6.5 Mark this position, and remove the legs at the pelvic interface.

S24.3.2.7 Move the dummy forward until the upper torso or head of the dummy makes contact with the vehicle's instrument panel.

S24.3.2.8 Once contact is made, raise the dummy vertically until Point A lies within Plane 1 (the vertical height to the center of the air bag) or until a minimum clearance of 6 mm (0.25 inches) between any part of the dummy head and windshield is attained.

S24.3.2.9 Position the upper arms parallel to the spine and rotate the lower arms forward (at the elbow joint) sufficiently to prevent contact with or support from the seat.

S24.3.2.10 Support the dummy so that there is minimum interference with the full rotational and translational freedom for the upper torso of the dummy.

S24.3.2.10.1 If necessary, tether the upper torso with a thread with a maximum breaking strength of 311 N (70 pounds) such that the tether is not situated in the air bag deployment envelope.

S24.3.3 *Position 2 (head on instrument panel).*

S24.3.3.1 Locate and mark the center point of the dummy's chest/rib plate (the vertical mid-point on the mid-sagittal plane of the frontal chest plate of the dummy). This will be referred to as ''Point A.''

S24.3.3.2 Locate the point on the air bag module cover that is the geometric center of the air bag module cover. This will be referred to as ''Point B.''

S24.3.3.3 Locate the vertical plane which passes through Point B and is parallel to the vehicle longitudinal axis. This will be referred to as ''Plane 2.''

S24.3.3.4 Position the right front passenger vehicle seat at any seat track location, at any seat height, and at any seat back angle between the manufacturer's nominal design position for the 50th percentile adult male as specified in S8.1.3.

S24.3.3.5 Place the dummy in the front passenger seat such that:

S24.3.3.5.1 Point A is located in Plane 2.

S24.3.3.5.2 A vertical plane through the shoulder joints of the dummy is at 90 degrees to the longitudinal axis of the vehicle.

S24.3.3.5.3 The legs are positioned 90 degrees (right angle) from horizontal.

S24.3.3.5.4 The dummy is positioned forward in the seat such that the legs rest against the front of the seat and such that the dummy's upper spine plate is 6 degrees forward (toward front of vehicle) of the vertical position.

Note: For some seats, it may not be possible to position the dummy with the legs in the prescribed position. In this situation, rotate the legs forward until the dummy is resting on the seat with the feet positioned flat on the floorboard and the dummy's upper spine plate is 6 degrees forward (toward the front of the vehicle) of the vertical position.

S24.3.3.6 Move the seat forward, while maintaining the upper spine plate orientation until some portion of the dummy contacts the vehicle's instrument panel.

S24.3.3.6.1 If contact has not been made with the vehicle's instrument panel at the full forward seating position of the seat, slide the dummy forward on the seat until contact is made. Maintain the upper spine plate orientation.

S24.3.3.6.2 Once contact is made, rotate the dummy forward until the head and/or upper torso are in contact with the vehicle's instrument panel. Rotation is achieved by applying a force towards the front of the vehicle on the spine of the dummy between the shoulder joints.

S24.3.3.6.3 Rotate the legs and feet rearward (toward rear of vehicle) so as not to impede the rotation of the head/torso into the vehicle's instrument panel.

S24.3.3.6.4 Reposition the legs so that the feet rest flat on (or parallel to) the floorboard with the ankle joints positioned as nearly as possible to the midsaggital plane of the dummy.

S24.3.3.6.5 If necessary, tether the upper torso with a thread with a maximum breaking strength of 311 N (70 pounds) and/or place a wedge under the dummy's pelvis. The tether may not be situated in the air bag's deployment envelope.

Note: If contact with the instrument panel cannot be made by sliding the dummy forward in the seat, then place the dummy in the forward-most position on the seat that will allow the head/upper torso to rest against the vehicle's instrument panel.

S24.3.3.7 Position the upper arms parallel to the torso and rotate the lower arms forward sufficiently to prevent contact with or support from the seat.

S24.3.4 Deploy the right front passenger air bag. If the air bag contains a multistage inflator, any stage or combination of stages may be fired that could deploy in crashes at or below 29 km/h (18 mph), under the test procedure specified in S22.4.

S25 *Requirements using an out-of-position 5th percentile adult female dummy at the driver position.*

S25.1 Each vehicle shall, at the option of the manufacturer, meet the requirements specified in S25.2 or S25.3 of this standard.

S25.2 *Option 1—Dynamic automatic suppression system.* (This option is available under the conditions set forth in S27.1.) The vehicle shall be equipped with a dynamic automatic suppression system for the driver air bag which meets the requirements specified in S27.

S25.3 *Option 2—Low risk deployment.* Each vehicle shall meet the injury criteria specified in S15.3 of this standard when the driver air bag is statically deployed in accordance with the procedures specified in S26 of this standard.

S26 *Test procedure for low risk deployment of driver-side air bag.*

S26.1 Position the Part 571 Subpart O 5th percentile adult female test dummy according to any of the following positions: Driver position 1 (S26.2) or Driver position 2 (S26.3).

S26.2 *Driver position 1 (chin on module).*

26.2.1 Adjust the steering controls so that the steering wheel hub is at the geometric center of the locus it describes when it is moved through its full range of driving positions. If there is no setting at the geometric center, position it one setting lower than the geometric center.

S26.2.2 Locate the point on the air bag module cover that is the geometric center of the steering wheel. This will be referred to as ''Point B.''

S26.2.3 Locate and mark the center point of the dummy's rib cage or sternum plate (the vertical mid-point on the mid-sagittal plane of the frontal chest plate of the dummy). This will be referred to as ''Point A.''

S26.2.4 Locate the horizontal plane that passes through Point B. This will be referred to as ''Plane 1.''

S26.2.5 Locate the vertical plane perpendicular to Plane 1 and parallel to the vehicle longitudinal axis which passes through Point B. This will be referred to as ''Plane 2.''

S26.2.6 Move the driver seat to the full rearward seating position. Place the seat back in the nominal design position for a 50th percentile adult male (S8.1.3) as specified by the vehicle manufacturer.

S26.2.7 Place the dummy in the seat such that:

S26.2.7.1 Point A is located in Plane 2.

S26.2.7.2 A vertical plane through the dummy shoulder joints is at 90 degrees to the longitudinal axis of the vehicle.

S26.2.7.3 The legs are positioned 90 degrees to the thighs.

S26.2.7.4 Rotate the dummy forward until its upper spine plate angle is 6 degrees forward (toward the front of the vehicle) of the steering wheel angle.

S26.2.8 Adjust the height of the dummy so that the bottom of the chin is in the same horizontal plane as the highest point of the module cover (dummy height can be adjusted using the seat position and/or spacer blocks). If the seat height prevents the bottom of chin from being in the same horizontal plane as the module cover, adjust the dummy height to as close to the prescribed position as possible.

S26.2.9 Move the dummy forward, maintaining the upper spine plate angle and dummy height until the head or torso contacts the steering wheel.

S26.2.10 If necessary, a thread with a maximum breaking strength of 311 N (70 pounds) may be used to hold the dummy against the steering wheel. Position the thread so as to eliminate or minimize any contact with the deploying air bag.

S26.3 *Driver position 2 (chin on rim).*

S26.3.1 The driver's seat track is not specified and may be positioned to best facilitate the positioning of the dummy.

S26.3.2 Locate the point on the air bag module cover that is the geometric center of the steering wheel. This will be referred to as ''Point B.''

S26.3.3 Locate and mark the center point of the dummy's rib cage or sternum plate (the vertical mid-point on the mid-sagittal plane of the frontal chest plate of the dummy). This will be referred to as ''Point A.''

S26.3.4 Locate the horizontal plane that passes through Point B. This will be referred to as ''Plane 1.''

S26.3.5 Locate the vertical plane perpendicular to Plane 1 which passes through Point B. This will be referred to as ''Plane 2.''

S26.3.6 Place the dummy in the front driver seat so that Point A is located in Plane 2.

S26.3.7 Rotate the dummy forward until its upper spine plate is 6 degrees forward (toward the front of the vehicle) of the steering wheel angle.

S26.3.8 Position the dummy so that the center of the chin is in contact with the uppermost portion of the rim of the steering wheel. Do not hook the chin over the top of the rim of the steering wheel. Position the chin to rest on the upper edge of the rim, without loading the neck. If the dummy head contacts the vehicle upper interior before the prescribed position can be obtained, the dummy height may be adjusted as close to the prescribed position as possible, while maintaining a 10±2 mm (0.4±.08 inches) clearance from the vehicle's upper interior.

S26.3.9 To raise the height of the dummy to attain the required positioning, spacer blocks (foam, etc.) may be placed on the driver's seat beneath the dummy. If necessary, a thread with a maximum breaking strength of 311 N (70 pounds) is used to hold the dummy against the steering wheel. Position the thread so as to eliminate or minimize any contact with the deploying air bag.

S26.4 Deploy the driver air bag. If the air bag contains a multistage inflator, any stage or combination of stages is fired that may deploy in crashes at or below 29 km/h (18 mph),

under the test procedure specified in S22.4.

S27 *Option for dynamic automatic suppression system that suppresses the air bag when an occupant is out-of-position.*

S27.1 *Availability of option.* This option is available for either air bag, singly or in conjunction, subject to the requirements of S27, if:

(a) A petition for rulemaking to establish dynamic automatic suppression system test procedures is submitted pursuant to Subpart B of Part 552 and a test procedure applicable to the vehicle is added to S28 pursuant to the procedures specified by that subpart, or

(b) A test procedure applicable to the vehicle is otherwise added to S28.

S27.2 *Definitions.* For purposes of S27 and S28, the following definitions apply:

Dynamic automatic suppression system or DASS means a portion of an air bag system that automatically controls whether or not the air bag deploys during a crash by:

(1) Sensing the location of an occupant, moving or still, in relation to the air bag;

(2) Interpreting the occupant characteristics and location information to determine whether or not the air bag should deploy; and

(3) Activating or suppressing the air bag system based on the interpretation of occupant characteristics and location information.

Automatic suppression zone or ASZ means a three-dimensional zone adjacent to the air bag cover, specified by the vehicle manufacturer, where the deployment of the air bag will be suppressed by the DASS if a vehicle occupant enters the zone under specified conditions.

S27.3 *Requirements.* Each vehicle shall, at each applicable front outboard designated seating position, when tested under the conditions of S28 of this standard, comply with the requirements specified in S27.4 through S27.6.

S27.4 Each vehicle shall be equipped with a DASS.

S27.5 *Static test requirement (low risk deployment for occupants outside the ASZ).*

S27.5.1 *Driver (Part 572, Subpart O 5th percentile female dummy).* Each vehicle shall meet the injury criteria specified in S15.3 of this standard when the driver air bag is statically deployed in accordance with the procedures specified in S28.1.

S27.5.2 *Passenger (Part 572, Subpart P 3-year-old child dummy and Part 572, Subpart N 6-year-old child dummy).* Each vehicle shall meet the injury criteria specified in S21.5 and S23.5, as appropriate, when the passenger air bag is statically deployed in accordance with the procedures specified in S28.2.

S27.6 *Dynamic test requirement (suppression of air bag for occupants inside the ASZ).*

S27.6.1 *Driver.* The DASS shall suppress the driver air bag before the head, neck, or torso of the specified test device enters the ASZ when the vehicle is tested under the procedures specified in S28.3.

S27.6.2 *Passenger.* The DASS shall suppress the passenger air bag before head, neck, or torso of the specified test device enters the ASZ when the vehicle is tested under the procedures specified in S28.4.

S28 *Test procedure for S27 of this standard.* [Reserved]

S28.1 *Driver suppression zone verification test (part 572, subpart O 5th percentile female dummy). [Reserved]*

S28.2 *Passenger suppression zone verification test (part 572, subpart P 3-year-old child dummy and Part 572, subpart N 6-year-old child dummies).* [Reserved)]

S28.3 *Driver dynamic test procedure for DASS requirements. [Reserved]*

S28.4 *Passenger dynamic test procedure for DASS requirements.* [Reserved]

S29 *Manufacturer option to certify vehicles to certain static suppression test requirements using human beings rather than test dummies.*

S29.1 At the option of the manufacturer, instead of using test dummies in conducting the tests for the following static test requirements, human beings may be used as specified. If human beings are used, they shall assume, to the extent possible, the final physical position specified for the corresponding dummies for each test.

(a) If a manufacturer decides to certify a vehicle using a human being for a static test, it must use humans for the entire series of tests, *e.g.*, 3-year-old children for each static test involving 3-year-old test dummies. If a manufacturer decides to certify a vehicle using a test dummy for a static test, it must use test dummies for the entire series of tests, *e.g.*, a Hybrid III 3-year-old child dummy for each static test involving 3-year-old test dummies.

(b) For S21.2, instead of using the Part 572 Subpart P Hybrid III 3-year-old child dummy, a human child who weighs between 13.4 and 18 kg (29.5 and 39.5 lb), and who is between 89 and 99 cm (35 and 39 inches) tall may be used.

(c) For S23.2, instead of using the Part 572 Subpart N Hybrid III 6-year-old child dummy, a human child who weighs between 21 and 25.6 kg (46.5 and 56.5 lb), and who is between 114 and 124.5 cm (45 and 49 inches) tall may be used.

(d) For S19.2, S21.2, and S23.2, instead of using the Part 572 Subpart O Hybrid III 5th percentile adult female test dummy, a female who weighs between 46.7 and 51.25 kg (103 lb and 113 lb), and who is between 139.7 and 150 cm (55 and 59 inches) tall may be used.

S29.2 Human beings shall be dressed in a cotton T-shirt, full length cotton trousers, and sneakers. Specified weights and heights include clothing.

S29.3 A manufacturer exercising this option shall upon request—

(a) Provide NHTSA with a method, and identify any parts or equipment necessary to deactivate the air bag during compliance testing under S20.3, S22.2, and S24.2; such assurance may be made by removing the air bag; and

(b) Provide NHTSA with a method to assure that the same test results would be obtained if the air bag were not deactivated.

S30 *Cruise control deactivation.*

S30.1 If a vehicle is equipped with a cruise control device, this device shall be deactivated whenever any stage of the air bag system deploys.

S30.2 The cruise control device shall be deactivated when the device is tested under the procedures specified in S31.

S31 *Test procedure for determining deactivation of cruise control.*

S31.1 Each vehicle that is equipped with a cruise control device shall be equipped with an electrical terminal that permits measurement of the cruise control voltage.

S31.2 Start the vehicle engine and engage the cruise control.

S31.3 Deploy any stage of the vehicle's frontal air bag system.

S31.4 The voltage at the cruise control voltage terminal shall be zero within 100 ms after any stage of the vehicle's frontal air bag system deploys.

S32 *Provisions for emergency rescue operations.*

S32.1 The air bag system shall deactivate whenever battery power to the vehicle is interrupted for at least 60 seconds, and shall reactivate once power from the battery is restored.

S32.2 The air bag system shall deactivate when the system is tested under the procedures specified in S33.

S33 *Test procedure for air bag deactivation during emergency rescue operations.*

S33.1 Each vehicle shall be equipped with an electrical terminal that permits measurement of the frontal air bag firing voltage. This terminal will

be referred to as the ''air bag firing voltage terminal.''

S33.2 Start the vehicle engine. Disconnect the vehicle's battery power. Record the time of disconnect as time TD.

S33.3 Measure the voltage at the air bag firing terminal at time TD plus 61 seconds.

S33.4 The voltage at the air bag firing terminal shall remain zero after time TD plus 61 seconds until power is manually restored to the terminal.

S33.5 Reconnect the battery. Start the vehicle engine. Record the time of engine start as time TR. Monitor the air bag readiness indicator (S4.5.2) at time TR plus 60 seconds to check if the air bag is activated, i.e., the indicator shall not be illuminated.

Figures to § 571.208

* * * * *

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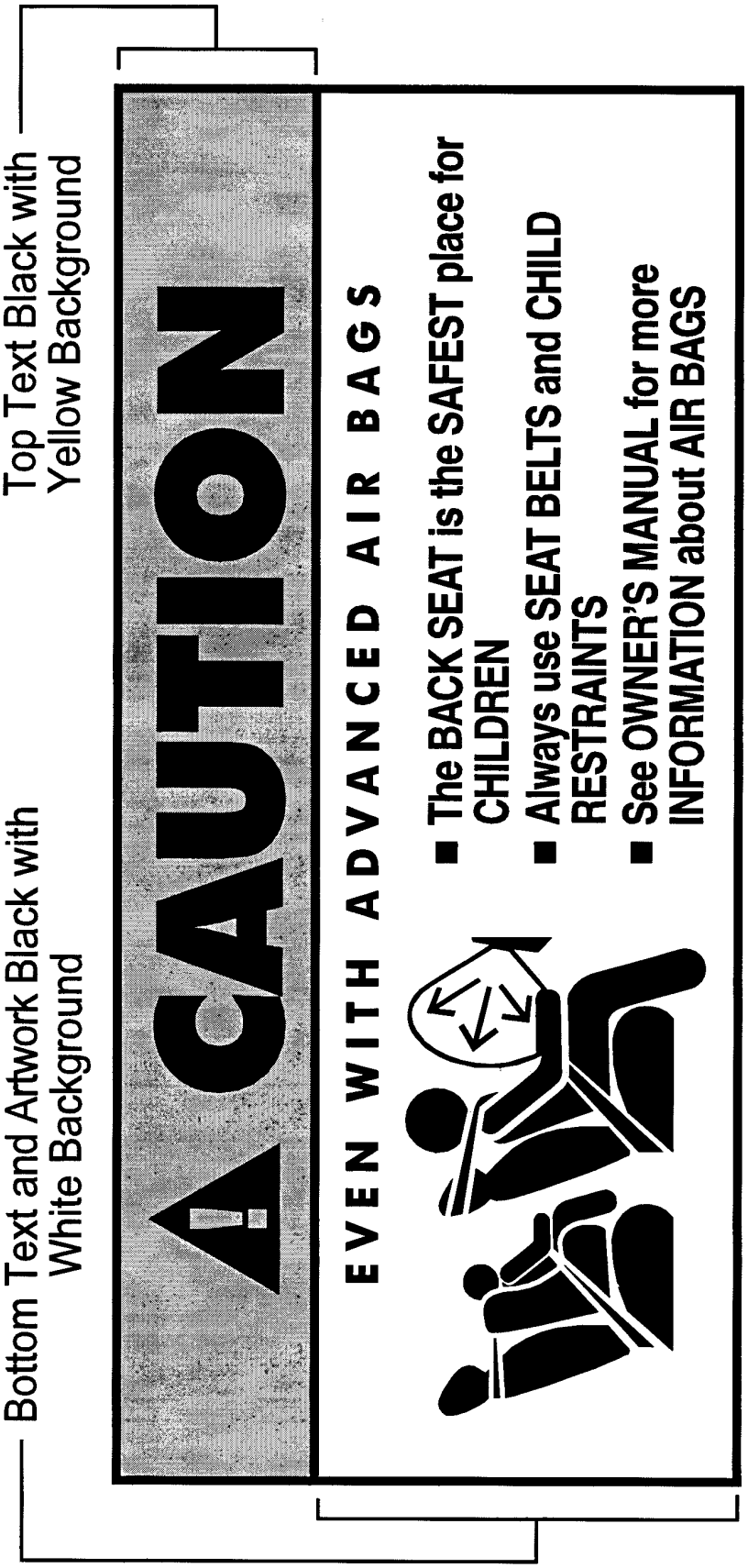


Figure 8. Sun Visor Label Visible when Visor is in Down Position.

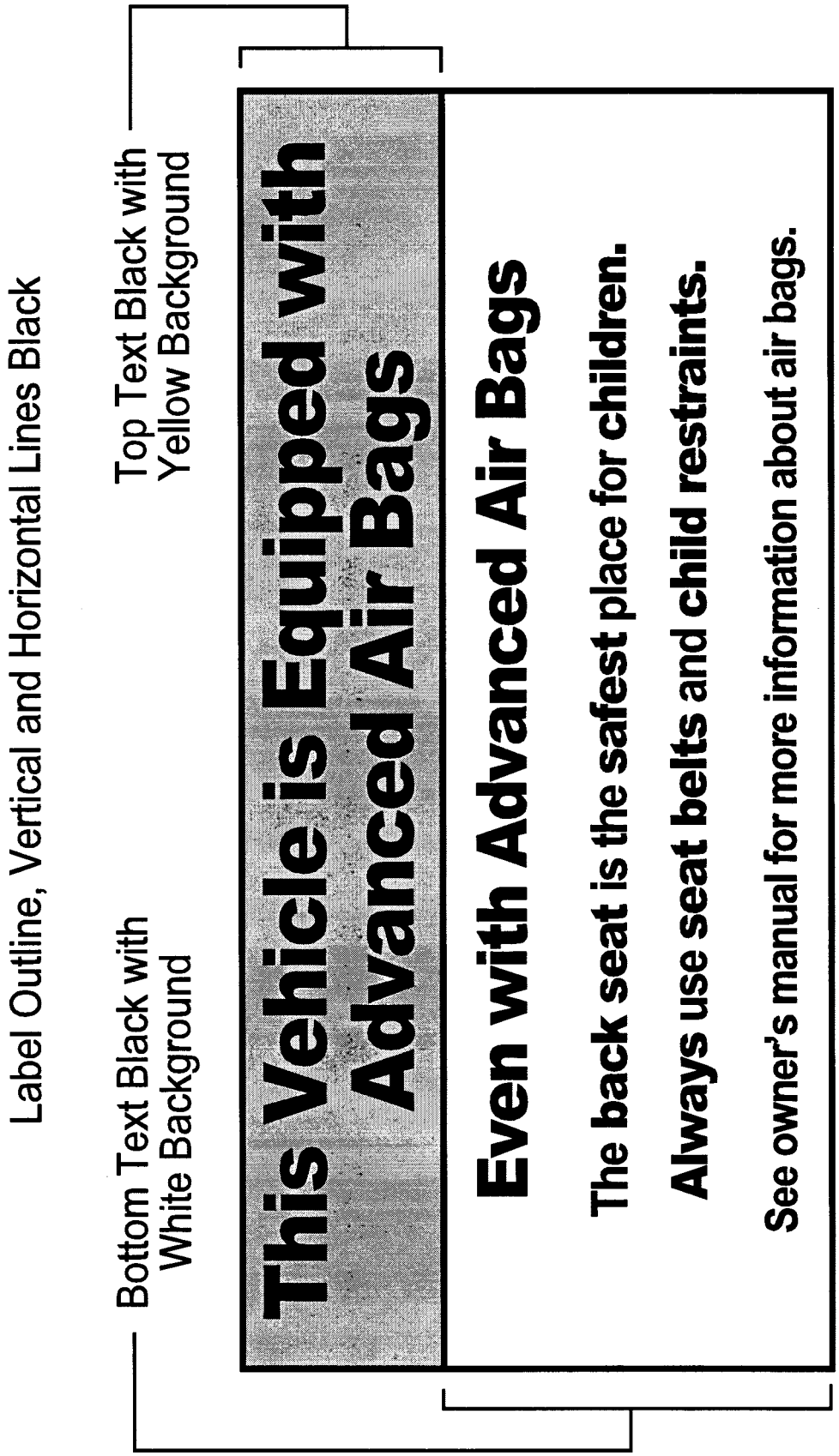
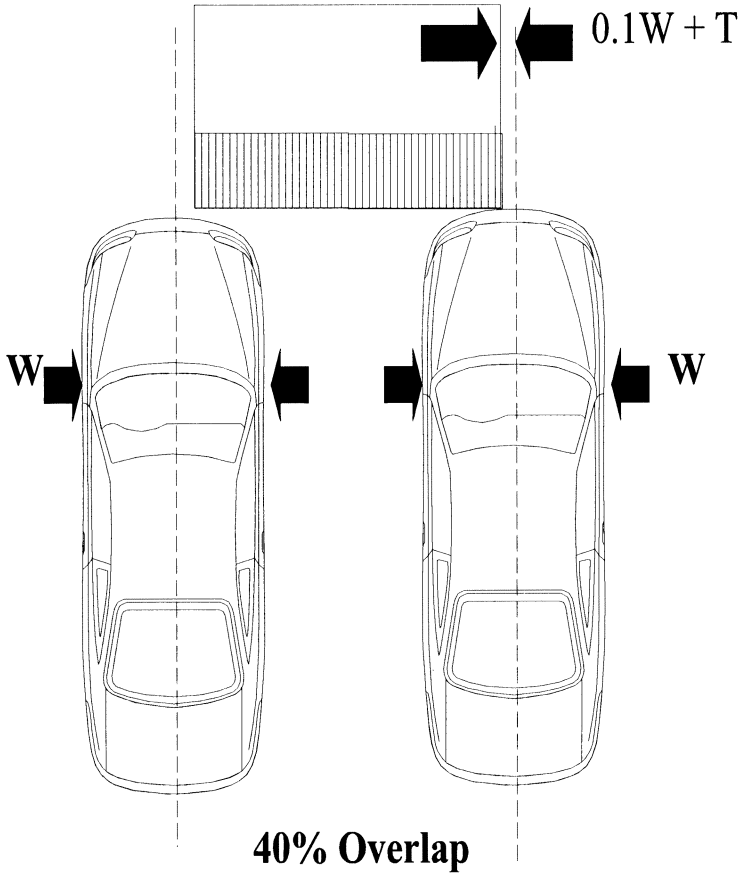


Figure 9. Removable Label on Dash.



Legend

---- Longitudinal Centerline of Vehicle

W Vehicle Width

T Tolerance

Figure 10. Configuration for Frontal Offset Deformable Barrier Test

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Appendix A to § 571.208—Selection of Child Restraint Systems

A. The following car bed, manufactured between January 1, 1999 and [insert date of final rule], may be used by the National Highway Traffic Safety Administration to test the suppression system of a vehicle that has been certified as being in compliance with 49 CFR Part 571.208 S19.

Cosco Dream Ride Car Bed

B. Any of the following rear facing child restraint systems, manufactured between January 1, 1999 and [insert date of final rule], may be used by the National Highway Traffic Safety Administration to test the suppression system of a vehicle that has been certified as being in compliance with 49 CFR Part 571.208 S19. When the restraint system comes equipped with a removable base, the test may be run either with the base attached or without the base.

Century Assura
Century 560 Institutional
Century Smart Fit
Cosco Arriva
Cosco Turnabout
Evenflo Discovery
Evenflo First choice
Evenflo On My Way
Fisher-Price Safe Embrace Infant
Graco Infant 7493
Kolcraft Secura

C. Any of the following forward-facing convertible child restraint systems, manufactured between January 1, 1999 and [insert date of final rule], may be used by the National Highway Traffic Safety Administration to test the suppression system of a vehicle that has been certified as being in compliance with 49 CFR Part 571.208 S19, or S21.

Britax Roundabout
Century Encore
Cosco Touriva
Evenflo Scout
Early Development Folder A-Lock
Fisher Price Safe-Embrace
Kolcraft Secure Fit

D. Any of the following forward-facing toddler/belt positioning booster systems, manufactured between January 1, 1999 and [insert date of final rule], may be used by the National Highway Traffic Safety Administration as test devices to test the suppression system of a vehicle that has been certified as being in compliance with 49 CFR Part 571.208 S21 or S23.

Britax Cruiser
Century Next Step
Cosco High Back Booster
Evenflo Evolution
Kolcraft Prodigy

6. Part 585 would be revised to read as follows:

PART 585—ADVANCED AIR BAG PHASE-IN REPORTING REQUIREMENTS

Sec.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

§ 585.1 Scope.

This part establishes requirements for manufacturers of passenger cars and trucks, buses, and multipurpose passenger vehicles with a GVWR of 3,855 kg (8500 pounds) or less and an unloaded vehicle weight of 2,495 kg (5500 pounds) or less to submit a report, and maintain records related to the report, concerning the number of such vehicles that meet the advanced air bag requirements of Standard No. 208, ''Occupant crash protection'' (49 CFR 571.208).

§ 585.2 Purpose.

The purpose of these reporting requirements is to aid the National Highway Traffic Safety Administration in determining whether a manufacturer has complied with the advanced air bag requirements of Standard No. 208.

§ 585.3 Applicability.

This part applies to manufacturers of passenger cars and trucks, buses, and multipurpose passenger vehicles with a GVWR of 3,855 kg (8500 pounds) or less and an unloaded vehicle weight of 2,495 kg (5500 pounds) or less. However, this part does not apply to any manufacturers whose production consists exclusively of walk-in vans, vehicles designed to be sold exclusively to the U.S. Postal Service, vehicles manufactured in two or more stages, and vehicles that are altered after previously having been certified in accordance with part 567 of this chapter.

§ 585.4 Definitions.

(a) All terms defined in 49 U.S.C. 30102 are used in their statutory meaning.

(b) Bus, gross vehicle weight rating or GVWR, multipurpose passenger vehicle, passenger car, and truck are used as defined in § 571.3 of this chapter.

(c) *Advanced air bag requirements of Standard No. 208* refers to the requirements set forth in S14.3, S15, S17, S19, S21, S23, S25, S30, and S32 of Federal Motor Vehicle Safety Standard No. 208, 49 CFR 571.208.

(d) *Production year* means the 12-month period between September 1 of one year and August 31 of the following year, inclusive.

§ 585.5 Reporting requirements.

(a) *Advanced credit phase-in reporting requirements.* Within 60 days after the end of the production years ending August 31, 2000, August 31, 2001, and August 31, 2002, each manufacturer choosing to certify vehicles according to the advanced air bag requirements of Standard No. 208 shall submit a report to the National Highway Traffic Safety Administration concerning its passenger cars, trucks, buses, and multipurpose passenger vehicles produced in that production year for advance credit for production years ending August 31, 2003, August 31, 2004, or August 31, 2005. Each report shall—

(1) Identify the manufacturer;

(2) State the full name, title, and address of the official responsible for preparing the report;

(3) Identify the production year being reported on;

(4) Provide the information specified in paragraph (c) of this section;

(5) Be written in the English language; and

(6) Be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

(b) *Phase-in reporting requirements.* Within 60 days after the end of the production years ending August 31, 2003, August 31, 2004 and August 31, 2005, each manufacturer shall submit a report to the National Highway Traffic Safety Administration concerning its compliance with the advanced air bag requirements of Standard No. 208 for its passenger cars, trucks, buses, and multipurpose passenger vehicles produced in that production year. Each report shall also include the number of pre-phase-in vehicles, if any, that are being applied to the production year being reported. Each report shall—

(1) Identify the manufacturer;

(2) State the full name, title, and address of the official responsible for preparing the report;

(3) Identify the phase-in schedule paragraph from S14.1 of 49 CFR 571.208 for which it has chosen to comply with until September 1, 2005;

(4) Identify the production year being reported on;

(5) Contain a statement regarding whether or not the manufacturer complied with the advanced air bag requirements of Standard No. 208 for the period covered by the report and the basis for that statement;

(6) Provide the information specified in paragraph (d) of this section;

(7) Be written in the English language; and

(8) Be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

(c) *Advanced credit phase-in report content.* (1) Manufacturers are not required to report any information with respect to those vehicles that are walk-in vans, vehicles designed to be sold exclusively to the U.S. Postal Service, vehicles manufactured in two or more stages, and vehicles that are altered after previously having been certified in accordance with part 567 of this chapter.

(2) *Production.* Each manufacturer shall report for the production year for which the report is filed the number of passenger cars and trucks, buses, and multipurpose passenger vehicles with a GVWR of 3,855 kg (8,500 pounds) or less and an unloaded vehicle weight of 2,495 kg (5,500 pounds) or less that meet the advanced air bag requirements of Standard No. 208.

(3) *Vehicles produced by more than one manufacturer.* Each manufacturer whose reporting of information is affected by one or more of the express written contracts permitted by S14.1.3.2 of Standard No. 208 shall:

(i) Report the existence of each contract, including the names of all parties to the contract and explain how the contract affects the report being submitted.

(ii) Report the actual number of vehicles covered by each contract.

(d) *Phase-in report content.* (1) Manufacturers are not required to report any information with respect to those vehicles that are walk-in vans, vehicles designed to be sold exclusively to the U.S. Postal Service, vehicles manufactured in two or more stages, and vehicles that are altered after previously having been certified in accordance with part 567 of this chapter.

(2) *Basis for phase-in production goals.* For production years ending August 31, 2003, August 31, 2004 and August 31, 2005, each manufacturer shall provide the number of passenger cars and trucks, buses, and multipurpose passenger vehicles with a GVWR of 3,855 kg (8,500 pounds) or less and an unloaded vehicle weight of 2,495 kg (5,500 pounds) or less manufactured for sale in the United States for each of the three previous production years, or, at the manufacturer's option, for the current production year. A new manufacturer that has not previously manufactured passenger cars and trucks, buses and multipurpose passenger vehicles with a GVWR of 3,855 kg (8,500 pounds) or less and an unloaded vehicle weight of 2,495 kg (5,500 pounds) or less for sale in the United States must report the number of such vehicles manufactured during the current production year.

(3) *Production.* Each manufacturer shall report for the production year for which the report is filed the number of passenger cars and trucks, buses, and multipurpose passenger vehicles with a GVWR of 3,855 kg (8,500 pounds) or less and an unloaded vehicle weight of 2,495 kg (5,500 pounds or less that meet the advanced air bag requirements of Standard No. 208.

(4) *Vehicles produced by more than one manufacturer.* Each manufacturer whose reporting of information is affected by one or more of the express written contracts permitted by S14.1.3.2 of Standard No. 208 shall:

(i) Report the existence of each contract, including the names of all parties to the contract and explain how the contract affects the report being submitted.

(ii) Report the actual number of vehicles covered by each contract.

§ 585.6 Records.

Each manufacturer shall maintain records of the Vehicle Identification Number for each passenger car, multipurpose passenger vehicle, truck and bus for which information is reported under §§ 585.5(c)(2) and (d)(3) until December 31, 2006.

§ 585.7 Petitions to extend period to file report.

A petition for extension of the time to submit a report must be received not later than 15 days before expiration of the time stated in § 585.5(a) and (b). The petition must be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. The filing of a petition does not automatically extend the time for filing a report. A petition will be granted only if the petitioner shows good cause for the extension, and if the extension is consistent with the public interest.

PART 595—RETROFIT ON-OFF SWITCHES FOR AIR BAGS

7. The authority citation for part 595 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30122 and 30166; delegation of authority at 49 CFR 1.50.

8. Section 595.5 would be amended by revising paragraph (a) to read as follows:

§ 595.5 Requirements.

(a) Beginning January 19, 1998, a dealer or motor vehicle repair business may modify a motor vehicle manufactured before September 1, 2005 by installing an on-off switch that allows an occupant of the vehicle to turn off an air bag in that vehicle, subject to the conditions in paragraphs (b)(1) through (5) of this section.

* * * * *

Issued on: October 26, 1999.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

Note: The following appendixes will not appear in the Code of Federal Regulations.

Appendix A to the Preamble—Response to Petition

In conjunction with commenting on the NPRM, Carl Nash and Donald Friedman submitted a petition for rulemaking to amend Standard No. 208 to ''require effective belt use inducement.'' The petitioners noted that such an amendment would need to be consistent with a provision of the National Traffic and Motor Vehicle Safety Act which prohibits ignition interlocks and continuous buzzers.

The petitioners stated that the inducements could include, but need not be limited to: (1) A continuous visual reminder to buckle seat belts located prominently on the instrument panel, (2) an intermittent, repeating audible suggestion (such as with a synthesized voice) warning occupants to buckle their seat belt, and (3) disruption of electrical power to such ''non-essential'' accessories as the radio, tape or CD player, and air conditioning. Mr. Nash and Mr. Friedman argued that a belt use inducement has the potential to save a minimum of 7,000 additional lives per year, and that, with an effective belt use inducement, NHTSA could simultaneously rescind Standard No. 208's unbelted test.

After carefully considering the petition submitted by Mr. Nash and Mr. Friedman, we have decided to deny it. We note that Standard No. 208 already requires both a warning light and an audible signal to remind occupants to wear their seat belts. The required warning system is tied to the driver seat belt, and the light and audible signal are only required for a brief period after the driver starts the vehicle.

In evaluating Mr. Nash's and Mr. Friedman's petition, we have considered whether the new requirements they recommend would (1) likely result in additional safety benefits, (2) be acceptable to the public, and (3) be within our statutory authority. None of their recommended requirements meet all of these criteria.

We note that our agency's previous experience with ignition interlocks indicates that great care must be taken in requiring vehicle modifications to induce higher belt use, to avoid consumer backlash. As of August 1973, Standard No. 208 required all new cars to be equipped either with automatic protection or an ignition interlock for both front outboard seating positions. General Motors sold about ten thousand of its 1974 model year cars equipped with air bags that met the automatic protection requirement. Every other 1974 model year car sold in the United States came with an ignition interlock, which prevented the engine from operating if either the driver or front seat outboard passenger failed to fasten their manual seat belt.

In a notice published in the **Federal Register** (39 FR 10272) on March 19, 1974, we described the public reaction to the ignition interlock as follows: ''Public resistance to the belt-starter interlock system * * * has been substantial, with current tallies of proper lap-shoulder belt usage on 1974 models running at or below the 60% level. Even that figure is probably optimistic as a measure of results to be achieved, in light of the likelihood that as time passes the awareness that the forcing systems can be disabled, and the means for doing so will become more widely disseminated * * *''

There were also speeches on the floor of both houses of Congress expressing the public's anger at the interlock requirement. On October 27, 1974, President Ford signed into law a bill that prohibited any Federal motor vehicle safety standard from requiring or permitting as a means of compliance any seat belt interlock system. In response to this change in the law, we published a final rule in the **Federal Register** (39 FR 38380) on October 31, 1974 that deleted the interlock option from Standard No. 208 effective immediately.

We believe that the petitioner's recommendation for a Federal requirement for disruption of electrical power to such accessories as the radio, tape or CD player, and air conditioning, if a person is not wearing their seat belts, would be unacceptable to a significant portion of the public. Such a requirement would be indistinguishable in nature from a requirement for an interlock.

As to the petitioners' recommendation that we require an intermittent, repeating audible suggestion (such as with a synthesized voice) warning occupants to buckle their seat belt, we are expressly prohibited from promulgating a requirement under the 1974 amendments to the Safety Act. The petitioners recognized that the amendments prohibited us from requiring ''continuous buzzers.'' However, the term ''continuous buzzer'' was defined to mean any buzzer other than one which operates only during the 8 second period after the ignition is turned to the ''start'' or ''on'' position.[1] Thus, we do not have the authority to require audible warnings outside that 8 second period.

While we would have authority to require a continuous visual reminder, as also recommended by the petitioners, they did not provide any information indicating that such a reminder would likely result in additional safety benefits over the existing warning systems.

We also note that, even if we believed that there existed an effective belt use inducement that we had authority to require and that was publicly acceptable, we could not simultaneously rescind Standard No. 208's unbelted test. First, there would be no way of knowing how effective any belt use inducement would be until after it had been in place for several years. Second, as we noted in the September 1998 NPRM, even in countries where seat belt use is 90 percent, unbelted occupants still represent about 33 percent of all fatalities. We also note that TEA 21 requires us to conduct rulemaking to improve occupant protection for occupants of different sizes, belted and unbelted, while minimizing risks. Rescission of Standard No. 208's test requirements for unbelted occupants would not be consistent with the statutory requirement to improve protection for unbelted occupants.

While we have decided to deny Mr. Nash's and Mr. Friedman's petition, for the reasons discussed above, we recognize that increased seat belt use offers the potential of enormous safety benefits. Even small increases in seat belt use offer the potential of significant savings in lives. We therefore encourage vehicle manufacturers to evaluate whether vehicle warning and other systems can be improved to increase seat belt use in ways that are acceptable to their customers.

We note that, earlier this year, Ford announced plans to use a new ''Belt-Minder'' system that warns unbuckled drivers with an intermittent chime until they buckle their seat belts. Drivers who don't want to wear their belts can disable the intermittent chime by buckling, then unbuckling their belt. While we note that this is a system that we would not have authority to require, we are encouraged by Ford's innovative approach and are hopeful that it will result in increased seat belt use and savings in lives.

Appendix B to the Preamble—Glossary

Air Bags—In General

Air bags are inflatable restraints. Enough gas must be pumped into them to cushion occupants. Otherwise, occupants, especially large ones, could ''bottom out'' the air bag and hit the vehicle interior in a crash. Thus, the amount of pressure within air bags must be carefully controlled. This is done by controlling both the rate at which gas is pumped into the air bag and the rate at which the gas is released from the air bag through vents or microscopic holes in the fabric itself.

Categories of Frontal Air Bags

Advanced air bags. Advanced air bags are air bags that minimize the risk of serious injury to out-of-position occupants and provide improved protection to occupants in high speed crashes. They accomplish this either by incorporating various technologies that enable the air bags to adapt their performance to a wider range of occupant sizes and crash conditions and/or by being designed to both inflate in a manner that does not pose such risk as well as to provide improved protection. Some of these technologies are multi-stage inflators, occupant position sensors, occupant weight and pattern sensors, and new air bag fold patterns. (The inflators and sensors are explained below.)

Redesigned air bags.[1] Redesigned air bags are bag systems used in vehicles that have been certified to the unbelted sled test option instead of the unbelted crash test option in Standard No. 208. Typically, a redesigned air bag in a MY 1998 or 1999 vehicle model has less power than the air bags in earlier model years of that vehicle model. However, the power levels of current air bags vary widely. For example, the redesigned air bags in some current vehicles are more powerful than the unredesigned air bags in some earlier vehicles.

Inflators

Inflators are the devices which pump the gas into air bags to inflate them in a crash.

Single stage inflators. Single stage inflators fill air bags with the same level of power in all crashes, regardless of whether the crash is a relatively low or high speed crash.

Multi-stage inflators. Multi-stage inflators (also known as multi-level inflators) operate at different levels of power, depending on which stage is activated. The activation of the different stages can be linked to crash severity sensors. In a vehicle with dual-stage inflators, only the first stage (lowest level of power) will be activated in relatively low speed crashes, while the first and second stages (highest level of power) will be activated in higher speed crashes. As crash severity increases, so must the pressure inside the air bag in order to cushion the occupants.

Sensors

Many advanced air bag systems utilize various sensors to obtain information about crashes, vehicles and their occupants. This information is used to adapt the performance of the air bag to the particular circumstances of the crash. It is used in determining whether an air bag should deploy and, if it should, and if the air bag has multiple inflation levels, at what level. Examples of these sensors include the following:

Crash severity sensors. Crash severity sensors measure the severity of a crash, *i.e.*, the rate of reduction in velocity when a vehicle strikes another object. If a relatively low severity crash is sensed, only the lowest stage of a dual-stage inflator will fill the air bag; if a more severe crash is sensed, both stages will fill the air bag, inflating it at a higher level.

Belt use sensors. Belt use sensors determine whether an occupant is belted or not. An advanced air bag system in vehicles with crash severity sensors and dual-stage inflators might use belt use information to adjust deployment thresholds for unbelted and belted occupants. Since an unbelted occupant needs the protection of an air bag at lower speeds than a belted occupant does, the air bag would deploy at a lower threshold for an unbelted occupant. (Deployment thresholds are explained below.)

Seat position sensors. Seat position sensors determine how far forward or back a seat is adjusted on its seat track. An advanced air bag system could be designed so a dual-stage air bag deploys at a lower level when the seat is all the way forward than it does when the seat is farther back. This would benefit those short-statured drivers who move their seats all the way forward.

Occupant weight sensors. Occupant weight sensors measure the weight of an occupant. An advanced air bag system might use this information to prevent the air bag from deploying at all in the presence of children.

[1] This provision was later codified using different language but without substantive change at 49 U.S.C. 30124.

[1] These air bags are also sometimes called depowered air bags, second generation air bags or next generation air bags.

Pattern sensors. Pattern sensors evaluate the impression made by an occupant or object on the seat cushion to make determinations about occupant presence and the overall size and position of the occupant. They could also sense the presence of a particular object like a child seat. An advanced air bag system might use this information to prevent the air bag from deploying in the presence of children. An advanced air bag system might utilize both an occupant weight sensor and an occupant pattern sensor.

Deployment Thresholds

The term ''deployment threshold'' is typically used to refer to the lowest rate of reduction in vehicle velocity in a crash at which a particular air bag is designed to deploy.

No-fire threshold. The no-fire threshold is the crash speed below which the air bag is designed to never deploy.

All-fire threshold. The all-fire threshold is the crash speed at or above which the air bag is designed to always deploy.

Gray zone. The gray zone is the range of speeds between the no-fire and all-fire thresholds in which the air bag may or may not deploy.

Vehicles with advanced air bags may have different deployment thresholds for belted and unbelted occupants, *e.g.,* the deployment threshold may be higher if an occupant is belted. (See belt use sensors above.)

Crash Tests vs. Sled Tests

In crash tests, instrumented test dummies are placed in a production vehicle which is then crashed into a barrier. Measurements from the test dummies are used to determine the forces, and estimate the risk of serious injury, that people would have experienced in the crash.

In sled tests, no crash takes place. The vehicle is placed on a sled-on-rails, and instrumented test dummies are placed in the vehicle. The sled and vehicle are accelerated very rapidly backward. As the vehicle moves backward, the dummies move forward inside the vehicle in much the same way that people would in a frontal crash. The air bags are manually deployed at a pre-selected time during the sled test. Measurements from the dummies are used to determine the forces, and estimate the risk of serious injury, that people would have experienced in the crash.

Fixed Barrier Crash Tests

All of the crash tests proposed in this SNPRM are fixed barrier crash tests, i.e., the test vehicle is crashed into a barrier that is fixed in place (as opposed to moving). The types of proposed fixed barrier crash tests are shown in Figure B1.

Rigid barrier test, perpendicular impact. In a rigid barrier, perpendicular impact test, the vehicle is crashed straight into a rigid barrier that does not absorb any crash energy. The full width of the vehicle's front end hits the barrier.

Rigid barrier, oblique impact test. In a rigid barrier, oblique impact test, the vehicle is crashed at an angle into a rigid barrier.

Offset deformable barrier test. In an offset deformable barrier test, one side of a vehicle's front end, not the full width, is crashed into a barrier with a deformable face that absorbs some of the crash energy.

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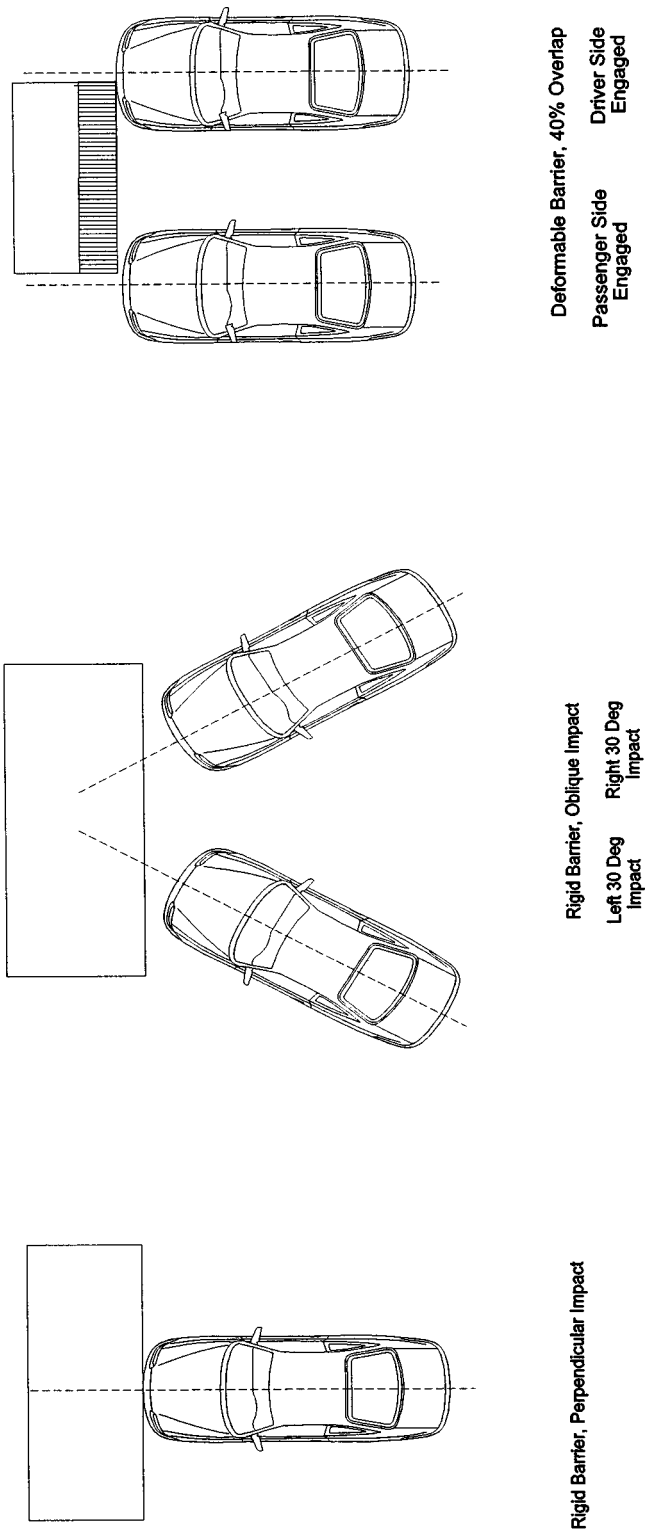
Figure B1

Types of Fixed Barrier Crash Tests



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Crash Pulses

A crash pulse is the graph or picture of how quickly the vehicle occupant compartment is decelerating at different times during a crash.

Stiff crash pulses. In crashes with stiff pulses, the occupant compartment decelerates very abruptly. An example of a crash with a stiff pulse would be a full head-on crash of a vehicle into a like vehicle. The perpendicular rigid barrier crash test produces a stiff crash pulse.

Soft crash pulses. In crashes with soft pulses, the occupant compartment decelerates less abruptly, compared to crashes with hard pulses. An example of a crash with a soft pulse would be the crash of a vehicle into sand-filled barrels such as those seen at toll booths or at the leading edge of a concrete median barrier. The offset deformable barrier crash test and the 30 degree oblique rigid barrier crash test produce soft crash pulses.

In crashes involving comparable reductions in velocity, an unrestrained occupant would hit the vehicle interior (*i.e.,* steering wheel, instrument panel and windshield) at a much higher speed in a crash with a stiff pulse than in a crash with a soft pulse.

Belted and Unbelted Tests

Belted tests use belted dummies, while unbelted tests use unbelted dummies. Despite increases in seat belt use, nearly 50 percent of all occupants in potentially fatal crashes are unbelted. Unbelted tests are intended to evaluate the protection provided these persons, many of whom are teenagers and young adults.

Static Out-of-Position Tests

Static out-of-position tests are called ''static'' because the vehicle does not move during the test. These tests are used to measure the risk that an air bag poses to out-of-position occupants. Test dummies are placed in specified positions that are extremely close to the air bag, typically with some portion of the dummy touching the air bag cover. The air bag is deployed. Measurements from the test dummy are used to determine the forces, and estimate the risk of serious injury, that people would have experienced in the crash.

Injury Criteria and Performance Limits—In General

In a crash test, sled test, or static out-of-position test, measurements are taken from the test dummy instruments that indicate the forces that a person would have experienced under the same conditions. Standard No. 208 specifies several injury criteria. For each criterion, the Standard also specifies a performance limit, based on the level of forces that create a significant risk of producing serious injury.

Injury Criteria

This SNPRM proposes performance limits for various injury criteria to address the risk of several types of injuries. Among these injury criteria are:

Head Injury Criterion or HIC. Head Injury Criterion or HIC address the risk of head injury;

Nij. Nij addresses the risk of neck injury; and

Chest Acceleration and Chest Deflection. Chest Acceleration and Chest Deflection address the risk of chest injury.

Test Dummies

This SNPRM proposes to use several test dummies to represent children and adults of different sizes. These dummies are:

12-month old Crash Restraints Air Bag Interaction (CRABI) dummy, representing an infant;

Hybrid III 3-year-old and 6-year-old child dummies, representing young children;

Hybrid III 5th percentile adult female dummy, representing a small woman;

Hybrid III 50th percentile adult male dummy, representing an average-size man.

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Friday
November 5, 1999

Part IV

Department of Education

34 CFR Part 611

Teacher Quality Enhancement Grants Program; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 611

RIN: 1840–AC65

Teacher Quality Enhancement Grants Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Acting Assistant Secretary for Postsecondary Education proposes regulations that would implement a requirement of section 204(e) of the Higher Education Act (HEA), as amended by the Higher Education Amendments of 1998. Section 204(a) requires that students in teacher preparation programs funded under the Teacher Recruitment Program must repay scholarships provided with program funds if they do not teach in high-need local educational agencies for the period of time for which they receive scholarship assistance. These proposed regulations also would extend the provisions implementing section 204(e) to any scholarships awarded to students in teacher preparation programs funded under the State and Partnership Programs authorized in sections 202 and 203 of the HEA.

DATES: We must receive your comments on or before December 6, 1999.

ADDRESSEES: All comments concerning these proposed regulations should be addressed to: Dr. Louis Venuto, Office of Policy, Planning, and Innovation, Office of Postsecondary Education, 400 Maryland Ave. SW, Washington, DC 20202–5131: Telephone: (202) 708–8847, or by FAX to: (202) 260–9272. If you prefer to send your comments through the Internet use the following address: comments@ed.gov

You must include the term ''Scholarship Repayment'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Dr. Louis Venuto, Higher Education Programs, Office of Postsecondary Education, Office of Policy, Planning, and Innovation, 400 Maryland Avenue, SW, Washington, DC 20202–5131: Telephone: (202) 708–8847. Inquiries also may be sent by e-mail to: Louis__Venuto@ed.gov or by FAX to: (202) 260–9272. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding these proposed regulations.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed regulations in the Department of Education, Teacher Quality Program Office, 1990 K Street NW, 6th floor, Washington, DC. Comments are available for inspection between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

General

Background

On October 8, 1998, the President signed into law the Higher Education Amendments of 1998 (Pub. L. 105–244). Title II of this law addresses the Nation's need to ensure that new teachers enter the classroom prepared to teach all students to high standards by authorizing, as Title II of the Higher Education Act (HEA), Teacher Quality Enhancement Grants for States and Partnerships. The new Teacher Quality Enhancement Grants Program provides an historic opportunity to effect positive change in the recruitment, preparation, licensing, and on-going support of teachers in America.

The new Teacher Quality Enhancement Grants Program consists of three different competitive grant programs: (1) The State Grants Program, which is designed to help States promote a broad array of improvements in teacher licensure, certification, preparation, and recruitment; (2) The Partnership Grants for Improving Teacher Preparation Program, which is designed to have schools of education, schools of arts and sciences, high-need local educational agencies (LEAs), and others work together to ensure that new teachers have the content knowledge and skills their students need of them when they enter the classroom; and (3) The Teacher Recruitment Program, which is designed to help schools and school districts with severe teacher shortages to secure the high-quality teachers that they need. Together, these programs are designed to increase student achievement by supporting comprehensive approaches to improving teacher quality.

In particular, the Teacher Recruitment Grants Program is designed to address a significant national need for recruiting, preparing, and hiring more individuals to become highly qualified teachers, especially in high-poverty communities. The Teacher Recruitment Grants—awarded either to States or to partnerships among high-need LEAs, teacher preparation institutions, and schools of arts and sciences—are designed to reduce shortages of highly qualified teachers in high-need school districts. In this regard, local partnerships between school districts and teacher preparation institutions have been found to be very effective at providing teachers for communities where they are most needed. The ''grow your own'' approach is also effective for these communities because individuals who are already members of a community are likely to remain there after they become teachers. The recruitment grants will allow individual communities to determine their needs for teachers and to recruit and prepare teachers who meet those needs. States also can play an important role in ensuring that high-need school districts are able to recruit highly qualified teachers, and can use recruitment grants to develop and implement effective mechanisms for doing so.

One key aspect of the Teacher Recruitment Grants Program is the availability of scholarships to students who are enrolled in teacher preparation programs at the grantee institutions of higher education (IHEs) (or at IHEs working with State Teacher Recruitment Program grantees), and who agree to teach in high-need school districts. As provided in section 204(e) of the HEA, in exchange for scholarship support recipients must agree to incur a

contractual obligation, under terms the Department establishes, to teach in high-need LEAs for a period equivalent to the period for which they receive the scholarship. This notice proposes the terms and conditions of this contractual agreement.

As explained more fully in this Notice of Proposed Rulemaking, scholarship recipients who do not meet this teaching obligation would have to repay the scholarship, accrued interest, and any costs of collection. Providing the Department the information it needs to determine when a recipient has met the service obligation and, alternatively, when a recipient needs to repay these sums, would become a shared responsibility of the institutions, scholarship recipients, and the high-need LEAs in which they will teach. IHEs and States that accept Teacher Recruitment Program grants would need to report to the Department the information that identifies the scholarship recipients and the amount of scholarships they receive. Students who receive scholarships would have certain reporting responsibilities that would begin upon graduation or withdrawal from the teacher training program and extend until they had fulfilled the service obligation or had repaid the scholarship, interest, and any costs of collection. Among other things, they would assume responsibility for having LEAs in which they teach after graduating from the teacher training programs provide the Department with basic employment information to confirm that they are fulfilling their service obligation.

Sections 202((d)(7) and 203(e)(4) of the HEA expressly permit recipients of State and Partnership grants to use program funds for activities that are authorized under the Teacher Recruitment Program. Hence, consistent with their approved applications, grantees of all three Teacher Quality Enhancement Grant programs may use program funds to provide scholarships to students attending teacher preparation programs who agree, upon graduation, to teach in high-need school districts. This Notice of Proposed Rulemaking would have the requirements governing scholarships provided under the Teacher Recruitment Program apply also to any scholarship provided under the State and Partnership Programs.

Finally, to receive scholarship assistance under any of the Teacher Quality Enhancement Grant programs, students do not need to be eligible for Federal student financial assistance provided under Title IV of the HEA. However, section 471 of the HEA does require IHEs to include the amount of any Teacher Quality Program scholarship as available resources in determining the amount of student financial assistance that a student may receive under Title IV.

Need To Regulate

The Department announced the initial competition for grants under the State, Partnership, and Teacher Recruitment Programs in a notice published in the **Federal Register** on February 8, 1999 (64 FR 6139). The Department announced grant awards under the State and Teacher Recruitment Programs on July 28, 1999, and grant awards under the Partnership Program on September 7, 1999.

The need for these regulations is clear. Section 204(e) of the HEA directs the Secretary to establish requirements to ensure that recipients of scholarships provided under this program either teach, upon graduation, in a high-need LEA for a period equivalent to the period for which they received scholarship assistance, or repay the amount of the scholarships. Use of program funds for these scholarships is a centerpiece of the Teacher Recruitment Program strategy for addressing teacher shortages in high-need areas. Hence, without these regulations, recipients of Teacher Recruitment Program grants will lack the capacity to implement a financial incentive that is a key aspect of the program. Likewise, recipients of State and Partnership grants will be unable to implement key activities that depend upon the use of program funds for scholarships to those attending teacher preparation programs.

The February 8, 1999 Notice of Eligibility and Selection Criteria to govern the initial competitions under the three Teacher Quality Programs established a definition of ''high-need LEA'' (64 FR 6145). That notice also requires States and partnerships that receive initial Teacher Recruitment Program grant awards to work to place those receiving scholarships through this program in teaching positions in high-need schools of high-need LEAs (64 FR 6145). However, the February 8 notice did not establish (1) The terms and conditions that will govern the receipt of this scholarship assistance; (2) A specific requirement that scholarship recipients agree to teach in high-need schools of high-need LEAs as a condition of receiving scholarship assistance; (3) The applicability of these provisions to scholarships provided under the State, Partnership, or Teacher Recruitment Program; or (4) The responsibilities of the scholarship recipients, teacher preparation programs in which they are enrolled, and the LEAs in which they later teach, to provide information to the Department that it needs to properly administer the scholarship program.

Therefore, regulations now are needed to establish requirements for scholarships under the Teacher Recruitment Program in areas such as—

- Whether all those provided scholarships with Teacher Recruitment Program funds should have to meet their service obligations by teaching in high-need schools of high-need LEAs;
- The definition of a ''high-need LEA'' and a ''high-need school'' in which scholarship recipients would need to teach in order to avoid responsibility for repaying their scholarships;
- How, in order to retain the financial assistance as a scholarship, the Department will calculate the period of time in which the scholarship recipient must teach in a high-need school of a high-need LEA;
- Conditions under which the Department may defer a scholarship recipient's service obligation;
- The amount of the scholarship recipient's indebtedness to the Federal government for failure to meet the service obligation, terms of repayment, and any limited circumstances under which the Department would discharge this indebtedness;
- The content of the scholarship agreement that the scholarship recipient would execute;
- The respective responsibilities of the scholarship recipient, teacher preparation program in which the recipient is enrolled, and the LEA in which he or she is later employed, to provide periodically to the Department basic employment and other information on the recipient until the Department has determined that the recipient has fulfilled the service obligation or has repaid the scholarship, interest, and any costs of collection; and
- Whether the rules governing the receipt of scholarships provided under the Teacher Recruitment Program should also apply to the receipt of scholarships that grantees provide under the State and Partnership Programs.

In issuing these proposed regulations, we have sought to keep administrative requirements and responsibilities that the public must bear as simple as possible. For example, while scholarship recipients are attending teacher preparation programs, grantees would only report to the Department on their status at the beginning of each

term. In addition, to confirm that scholarship recipients had met their service obligations, the application packages for the Teacher Recruitment Program available in February 1999 had proposed that grantees assume some responsibility to track recipients once they had graduated or withdrawn from the teacher training programs. Under these proposed regulations grantees would not have these responsibilities. They instead would shift to the scholarship recipients, the LEAs in which they teach, and the Department. Moreover, these proposed regulations and the scholarship agreement that would reflect them are consistent with the basic terms and conditions of other Department student financial assistance programs, such as the Federal Perkins Loan Program authorized in Title IV, part E, of the HEA.

The remainder of this section of this notice explains in more detail the regulations that the Department proposes to adopt for the Teacher Recruitment Program and, by extension, to the State and Partnership Programs as well.

A. Definition of High-Need LEA and High-Need School

Under these proposed regulations, individuals who are provided scholarships with Teacher Recruitment Program funds would first need to agree, upon graduation, to teach in a ''high-need school'' of a ''high-need LEA'' for at least a period of time that is equivalent to the period for which they received scholarship assistance. Proposed § 611.1, which includes definitions that would apply to the Teacher Quality Enhancement Grants Program as a whole, defines those high-need schools and high-need LEAs in which scholarship recipients must teach to meet their service obligations. These definitions would apply both to Fiscal Year 1999 funds that the Department awarded to States and partnerships in July 1999 under the initial Teacher Recruitment Program competition, and to funds that the Department will award under future competitions.

Under proposed § 611.1, a high-need school would be an elementary or secondary school that meets one of the following definitions:

1. A school that is located in an area in which 50 percent or more of the enrolled students are eligible for free and reduced lunch subsidies.

2. A school that has—

More than 34 percent of academic classroom teachers overall (across all academic subjects) who do not have a major, minor, or significant course work in their main assignment field; or

More than 34 percent of the main assignment faculty in two of the core-subject departments who do not have a major, minor, or significant work in their main assigned field.

Note: For purposes of the definition above—''Main assignment field'' means the academic field in which teachers have the largest percentage of their classes.

''Significant course work'' means four or more college-or graduate-level courses in the content area.

3. A school that has had an attrition rate among classroom teachers of 15 percent or more in the last three school years.

An LEA that serves at least one elementary or secondary school meeting one of these three tests would be a ''high-need LEA.''

As noted in the preceding section of this preamble, the February 8, 1999 rule governing the initial program competition (64 FR 6145) requires all Teacher Recruitment Program grantees (and any high-need LEAs that participate in their projects) to ensure that scholarship recipients are placed, to the extent possible, in high-need schools within the participating high-need LEAs. Consistent with this requirement, the definitions in § 611.1 of these proposed regulations would clarify that these high-need schools are schools in high-need LEAs that meet one or more of the three tests explained immediately above. Section 611.34(a)(1) would clarify that, as a condition of receiving scholarship assistance, a recipient must execute a binding agreement either to teach in a high-need school in a high-need LEA or repay the scholarship, interest, and any collection costs.

These proposed definitions of high-need LEA and high-need school differ in one respect from the definitions of these terms that we included in the February 8, 1999 rules (64 FR 6147) to govern the initial Teacher Quality program competitions. That notice provided that the first eligibility test would depend upon the school's having at least 40 percent of its enrolled students eligible for free lunch subsidies. As now proposed, the test would instead be whether at least 50 percent of the school's enrolled students are eligible for free and reduced lunch subsidies. The Department had adopted the former test because it then believed that this measure was the closest available proxy, for which LEAs would have data, for the definition of high-need LEA in section 201(b)(2)(A) of the HEA. Section 201(b)(2)(A) extends the definition of a high-need LEA to any LEA with at least one school located in an area with a high percentage of individuals from families with incomes below the poverty line.

However, we have since determined that 40 percent eligibility of enrolled students for free lunch subsidies is a measure that is equivalent to nearly 50 percent eligibility of enrolled students for free and reduced lunch subsidies. For several reasons, this 50-percent test based on enrolled students eligible for free and reduced lunch subsidies is preferable to the existing 40 percent test based on eligibility for free lunch subsidies. First, this 50 percent eligibility test is itself the same measure that Congress recognizes, and most LEAs use, to determine a school's eligibility to operate as a ''schoolwide program''under Title I of the Elementary and Secondary Education Act (ESEA). (See also the discussion of Title I schoolwide programs and targeted assistance programs in the following section of this notice.) Use of the 50-percent test here will promote a common definition of ''high-poverty''in these two programs. Moreover, there is a strong convergence between the purposes of the Teacher Quality programs and the teaching needs of schools that are eligible to use their Title I, ESEA funds in schoolwide programs.

In particular, section 204 of the HEA requires states and partnerships that receive Teacher Recruitment Program grants to work collaboratively with specific high-need LEAs to recruit and train individuals who, upon graduation from teacher preparation programs, will help to address those LEAs' shortages of qualified teachers. Consistent with this statutory requirement, proposed § 611.40(d) would require each grantee that provides scholarship assistance under this program to work with high-need LEAs that participate in its project so that scholarship recipients are placed, to the extent possible, in high-need schools of those LEAs. Adapting the Title I, ESEA, schoolwide program criterion to Title II of the HEA will significantly reduce confusion among educators and scholarship recipients alike about schools in which recipients may teach and fulfill their service obligation.

B. Relationship of Service Obligation to Conditions for Debt Forgiveness Under the Federal Perkins Loan Program

Some Teacher Recruitment Program scholarship recipients also may be recipients of student loans provided under the Federal Perkins Loan Program. The Perkins Loan Program authorizes loan forgiveness for those who subsequently teach in certain schools receiving funds provided under

Title I, part A, of the ESEA. Hence, the Perkins Loan Program and the Title II, HEA, scholarship authority offer comparable incentives to individuals to become teachers in high-need schools. However, the incentives are not identical. We therefore believe that it would be useful to clarify in what schools graduates of teacher preparation programs who have received both forms of financial assistance must teach in order both to secure Perkins Program loan forgiveness and to meet their Teacher Recruitment Program service obligation.

Regulations governing the Perkins Loan Program in 34 CFR 674.54 identify the conditions under which an institution of higher education (IHE) providing a Federal Perkins loan must cancel up to 100 percent of a student's outstanding loan balance. In particular, they require cancellation of the loan for a student who teaches in a school that (1) is in an LEA that is eligible to receive funds under Title I, part A, of ESEA, and (2) the Secretary selects, based on a ranking of schools in the State by the State educational agency and a determination that more than 30 percent of the school's enrollment is comprised of Title I students. If a Federal Perkins loan recipient also has received a Teacher Recruitment Program scholarship, the individual will be able to avoid payment of the Perkins loan and repayment of the scholarship if the school has been designated for Perkins Program loan forgiveness and is a high-need school within a high-need LEA.

For the recipient, the key will be to confirm that the school is one that meets tests under both the Perkins Loan Program and Teacher Recruitment Program. The institution providing the Perkins loan will be able to identify for the recipient which Title I schools qualify for Perkins Program loan forgiveness. Then, through information obtained either directly from the IHE or from the administrative office of the LEA in which the scholarship recipient would teach, the recipient will be able to learn whether the school also meets a Teacher Recruitment Program definition of a high-need school. As the proposed regulations announced in this notice would offer three alternative definitions of high-need school, meeting any one of these three would suffice.

However, we believe that scholarship recipients likely would find it easiest to rely upon this proposed first definition—that a particular school have at least 50 percent of its enrolled students eligible for free and reduced lunch subsidies. This is because this proposed definition has such programmatic importance under Title I of the ESEA that all LEAs will know which of their schools receiving Title I assistance meet this test.

In particular, this particular proposed definition of high-need LEA and high-need school is the same commonly used test of whether a school receiving Title I assistance may, under section 1114 of the ESEA operate as a schoolwide program. (Section 1114 of Title I provides that schools may do so if 50 percent or more of their students are from low-income families. Schools with lower percentages of students from low-income families may not operate as schoolwide programs; they may only operate as more traditional ''targeted-assistance schools.'' Title I permits schools and LEAs to determine the percentage of students from low-income families, among other ways, by using a variety of methods. However, the eligibility of enrolled students for free and reduced lunch subsidies is by far the most widely used.)

Thus, any Title I school that (1) Has been designated by the Secretary as one in which a teacher may receive Perkins Program loan forgiveness, and (2) also is eligible to operate as a Title I schoolwide program, would be one in which that teacher can meet the service obligation. Conversely, teaching in a Title I school that the Secretary designates under the Perkins Program, but which is not eligible to operate as a schoolwide program, would only qualify the teacher for Perkins Program loan forgiveness. It would not also enable the teacher to satisfy his or her Teacher Recruitment Program's service obligation unless the school met one of the other proposed definitions of a high-need school—more than 34 percent of the school's teachers teaching out-of-field, or a teacher attrition rate of at least 15 percent.

C. Terms of the Scholarships—General

Proposed § 611.34(a) provides that, before receiving scholarship assistance under the Teacher Recruitment Program, individuals would need to execute an agreement that embodies their service obligation. Sections 611.35–611.39 of these proposed regulations contain recipient repayment and informational requirements that would apply to these scholarships. Section 611.34(b) would have the scholarship agreements include these requirements, as the Secretary determines to be necessary.

Note: We have included a copy of the proposed scholarship agreement in Appendix A to this notice. This proposed agreement includes those provisions that, for scholarships provided with Teacher Recruitment Program funds, program grantees would need to include in scholarship agreements they offer to individuals attending teacher preparation programs. The proposed agreement is included in Appendix A for information purposes only; while its terms reflect the content of the proposed regulations, the agreement itself would not be included as a regulation in the Code of Federal Regulations. Any written comment on the content of the proposed Agreement should be sent to the person listed in the PAPERWORK REDUCTION ACT OF 1995 section of this preamble. Any written comment on the proposed regulations themselves, whose terms the scholarship agreement would reflect, should be separately sent to the person listed in the **ADDRESSES** section of this preamble.

The provisions of proposed §§ 611.35–611.39 concern matters such as:

- The responsibilities of the scholarship recipient to teach in a high-need school of a high-need LEA once he or she is eligible to teach;
- How the period of time in which the scholarship recipient must teach in a high-need school of a high-need LEA would be determined;
- Conditions under which the scholarship recipient's service responsibility would be deferred;
- The amount of the scholarship recipient's indebtedness to the Federal government and terms of repayment, should the recipient not meet these conditions; and
- The responsibility of the scholarship recipient, either alone or through the high-need LEA in which he or she begins teaching after graduating from the teacher training program, periodically to provide employment and other information to the Department.

These provisions are similar to those used in other student financial assistance programs that the Department administers. However, given the relatively small size of the Teacher Recruitment Program, these provisions have been tailored to provide as much flexibility and as little administrative burden as possible.

D. The Service Obligation

More specifically, before receiving a scholarship under the Teacher Recruitment Program, an individual would need to sign an agreement both to—

- Begin to teach in a high-need school of a high-need LEA (as those terms are defined in § 611.1 of these proposed regulations) within six months of the date from which he or she completes a teacher training program, *and*
- Continue to teach in a high-need school of a high-need LEA for a period equivalent to at least the period of time

that the individual received the scholarship assistance;

or to—

- Repay the Department the full amount of the scholarship assistance, interest, and any costs of collection.

Scholarship recipients who fail to complete the teacher preparation program would be required to repay the full amount of scholarship assistance that they receive, plus interest and any costs of collection. (Proposed § 611.40(a)(3) would require the IHE's teacher training program to establish policies for determining when to withdraw scholarship support for a student who does not remain in good academic standing, and when to re-negotiate the scholarship package over an extended period of time.)

E. Length of the Service Obligation

Proposed § 611.35 provides how the Secretary would calculate the period of the scholarship recipient's service obligation. Whether attending a teacher training program on a full- or part-time basis, a scholarship recipient would need to teach in a high-need school of a high-need LEA for a period that is comparable to the full-time equivalent period of time that the student received scholarship assistance. The Department would treat both the full academic year of the teacher training program, excluding summer, and the full academic year of the LEA, excluding summer and any intersession periods (for LEAs that operate year-round programs), as equivalent one-year periods.

Example: An individual receives a scholarship for the costs of attending a teacher training program on a part-time basis. While the program extends for two full years of coursework and clinical experience, the scholarship recipient is enrolled part-time, and completes the program in three years. The Secretary would consider the period for which the individual receives a scholarship as two academic years.

Upon graduating (and receiving two full years of scholarship support), the individual begins teaching half-time in a high-need school of a high-need LEA. If the individual continues to teach half-time, he or she would meet the program's service obligation by teaching in a high-need school of a high-need LEA for the standard contractual period of four school-years. This four-year period is equivalent to the two full school-years that a full-time teacher would teach.

As explained below in part I, ''Recipient and LEA Reporting Requirements,'' a Teacher Recruitment Program grantee would be required to provide information to the Department that it needs to calculate the period of a scholarship recipient's service obligation. Specifically, the grantee would need to provide the Department the length of time for which each recipient receives scholarship assistance converted to a full-time student equivalent relative to students taking a normal, full academic load. After graduating and beginning to teach, the scholarship recipient would have the high-need LEA in which he or she teaches provide the Department with comparable information on the recipient's employment relative to those who teach for the LEA on a full-time basis.

F. Repayment

Proposed § 611.36 contains provisions for repayment of the scholarship for failure to meet the service obligation. As explained in proposed § 611.36(a), a scholarship recipient who the Department determines has not met the scholarship's service obligation would become responsible for repaying the scholarship, along with accrued interest and costs, six months after the date he or she—

(1) Completes the teacher training program;

(2) Is no longer enrolled in that program; or

(3) Is no longer employed as a teacher in a high-need school of a high-need LEA.

Proposed § 611.36(b) would require a recipient who fulfills some, but not all, of his or her service obligation to repay the amount of the scholarship that is proportionate to the unmet portion of the service obligation, along with accrued interest on this portion of the scholarship and costs of collection, if any.

Example: An individual receives a scholarship in the total amount of $10,000 to attend a teacher preparation program for two academic years. The individual graduates from the program, and works in a high-need school of a high-need school district for one full school year. The individual then moves, and takes a teaching position in a school and school district that are not high-need.

The individual has fulfilled one-half of his or her service obligation. Therefore, the recipient must repay one-half of the scholarship, interest on this amount that begins to accrue six months after he or she graduated from the teacher preparation program, and any costs of collection.

Proposed § 611.36(c) would permit an individual who must repay the scholarship and accrued interest to obtain a payment schedule upon request. Consistent with the Department's practice for student financial assistance programs authorized in Title IV of the HEA. The Department generally would establish a minimum monthly payment of no less than $50. Proposed § 611.36(e) also would clarify that any minimum monthly payment must permit the full amount of scholarship and interest to be repaid within ten years of the date the recipient becomes responsible for repayment.

As included in proposed § 611.36(d), the Secretary would charge interest in accordance with 31 U.S.C. 3717 and 34 CFR part 30 on the unpaid balance that the scholarship recipient owes.

Note: For calendar year 1999, the rate of interest is five percent.

Except where a scholarship recipient does not fulfill the service obligation after receiving a deferment (see section G: ''Deferment of the Service Obligation''), no interest would be charged for a period that precedes the date on which the scholarship recipient must begin repayment.

In this regard, proposed § 611.36(e) would provide that a recipient's failure to meet repayment or reporting requirements results in the recipient's being in non-compliance with its terms and so liable for repayment of the scholarship, interest and any costs of collection. Proposed § 611.36(f) would entitle the Department to take appropriate legal action to collect any indebtedness.

In proposing these requirements, we considered other periods of time—both longer and shorter than six months—between the time a recipient graduates or withdraws from the teacher preparation program and the time the service obligation or obligation to repay begins. In view of the various options proposed under which the service obligation may be deferred (see the following section of this notice), six months seems to offer recipients ample time to find employment in high-need schools of high-need LEAs or reconsider any decision to withdraw from the teacher preparation program.

G. Deferment of the Service Obligation

Recognizing that illness or other personal circumstances may create legitimate reasons for a scholarship recipient's inability to meet his or her service obligation, proposed § 611.37(b) identifies conditions under which the Department would defer a service obligation. These would include: Serious physical or mental disability that prevents or substantially impairs the scholarship recipient's employability as a teacher; an inability, despite due diligence, to pass a required teacher licensure or certification examination or otherwise secure employment as a teacher in a high-need school of a high-need LEA; membership in the armed forces of the United States on active duty for no more than three years; or other extraordinary

circumstances that the Secretary accepts.

For the student financial assistance programs authorized in Title IV of the HEA, the Department generally also offers loan deferment to those who participate in the Peace Corps, Americorps, or other national service. However, the express purpose of these Teacher Recruitment Program scholarships is to address the immediate teacher shortages of high-need LEAs by recruiting and training qualified individuals who will become teachers in their schools. Individuals who are unable or unwilling to accept these teaching positions after graduating from a teacher preparation program should not accept the scholarships. Accordingly, we do not believe that these proposed regulations should make deferments of the service obligation available to scholarship recipients who choose to work in these other areas.

Proposed § 611.37(c) would provide that unless the Secretary determines otherwise, a scholarship recipient would apply to renew a deferment on a yearly basis. The Department intends to prepare guidance, which grantees and institutions offering scholarships would provide to scholarship recipients, on the kind of information the Department would expect to receive in any acceptable request for deferment of the service obligation. Proposed § 611.37(c) also would require a scholarship recipient to begin teaching in a high-need school of a high-need LEA within 60 days of the end of a deferment, or become liable for repaying the scholarship, accrued interest, and any costs of collection.

As provided in proposed § 611.37(d), interest would continue to accrue during periods in which the service obligation is deferred. However, the scholarship recipient would not be liable for this accrued interest if he or she fulfills the service obligation once the period of deferment has ended.

H. Discharge of Repayment Responsibility

Proposed § 611.38 would identify the very limited circumstances—death, and total and permanent physical or mental disability that prevents a scholarship recipient from teaching—in which the Secretary would cancel the responsibility to repay a scholarship and accrued interest for failure to fulfill the service obligation.

I. Recipient and LEA Reporting Requirements

The scholarship agreement also would clarify the recipient's responsibility, as a condition of receipt of the scholarship, to ensure that the Department has the information it needs to administer the scholarship and payback provisions of the HEA. In particular, as noted in proposed § 611.39(a), within six months of the date a scholarship recipient graduates from a teacher preparation program, he or she would either—

- Have the high-need LEA in which he or she is employed provide the Department information that the Secretary may require that (1) identifies the scholarship recipient through such basic information as name, address, phone number, and social security number; (2) confirms that he or she is teaching in a high-need school of a high-need LEA; and (3) states whether the individual is teaching full- or part-time and, if part-time, the full-time equivalency of this teaching compared to the district's full-time teachers; or
- Submit to the Department, along with his or her home address, telephone number, and social security number (1) The required repayment; (2) A request to repay the obligation in installments; or (3) A request that the Secretary defer a required repayment, for reasons that the proposed regulations permit, along with a sufficient statement of justification.

Note: Before the scholarship recipient's graduation, the IHE in which the recipient is enrolled would provide him or her with written information that explains the information the LEA would need to submit to the Department for the first item above. This information would contain the elements that the Office of Management and Budget approves under the Paperwork Reduction Act. See the Paperwork Reduction Act of 1995 section of this preamble.

In this regard, we have included in Appendix B of this notice the information that we are proposing that an LEA provide each year until the Department has determined that the teacher has met his or her service obligation. The content of Appendix B is included for information purposes only; while its terms reflect the content of the proposed regulations, these terms would not be included as a regulation in the Code of Federal Regulations. Any written comment on the content of the proposed reporting instrument should be sent to the person listed in the Paperwork Reduction Act of 1995 section of this preamble. Any written comment on the proposed regulations themselves, whose terms the LEA reporting instrument would reflect, should be separately sent to the person listed in the **ADDRESSES** section of this preamble.

Proposed § 611.39(b)(1) would require scholarship recipients, who within six months of graduation report (through their LEAs) that they are teaching in a high-need school of a high-need LEA, to have their LEAs also provide updated employment information at the end of the school year. Proposed § 611.39(b)(2) would require the recipient in subsequent years to have the LEA continue to provide this information until the Department notifies the recipient that he or she has fulfilled the service obligation. Proposed § 611.39(b)(3) offers to credit summer and intersession teaching in high-need schools of high-need LEAs toward the recipient's fulfillment of the service obligation.

Conversely, proposed § 611.39(c) would require those scholarship recipients who (1) Do not complete the teacher training program, or (2) Do not retain scholarships provided with program funds because of a failure to remain in good academic standing, to submit to the Department—

- The required repayment;
- A request to repay the obligation in installments; or
- A request that the Secretary defer a required repayment for reasons that the proposed regulations provide, along with a sufficient statement of justification.)

Proposed § 611.39(c) also would have the Department, upon receipt of this information, notify these individuals of the status of their obligation, and of any schedule under which they would need to repay their scholarship, interest, and any costs of collection.

Finally, Proposed § 611.39(d) would make the scholarship recipient's agreement to continue providing this information (or, if the recipient teaches in a high-need school, have the high-need LEA provide this information) an ongoing condition of the scholarship. In addition, until the Department has determined that the recipient either has met the service obligation or has repaid the full amount of scholarship, interest, and costs that are due, the recipient would need to ensure that the Department has a current home address and telephone number, and a current work address and telephone number.

J. Responsibilities of Teacher Recruitment Program Grantees

Section 611.40 of these proposed regulations would require each Teacher Recruitment Program grantee to undertake certain basic responsibilities with regard to scholarship recipients. These include:

- Ensuring that, before any prospective scholarship recipient executes a Teacher Recruitment Program scholarship agreement, the

individual understands its terms and conditions;

- Providing to the Department periodic information the Department needs to identify the scholarship recipient and the scholarship amount he or she received. This information includes (1) The amount of the scholarship provided with program funds; (2) The full-time equivalency (over each academic year) of the recipient's enrollment in the teacher training program for which he or she receives scholarship assistance; (3) The date of the scholarship recipient's graduation or withdrawal from the teacher preparation program; and (4) Whether the institution has withdrawn scholarship support because of a failure to maintain good academic standing.
- Providing the Department, after a scholarship recipient's graduation or withdrawal from the teacher preparation program, the original of the scholarship agreement that the recipient and the grantee (or its partnering IHE, if the grantee is not an IHE) had signed;
- Holding an exit conference with each scholarship recipient before the recipient's graduation or withdrawal from the teacher preparation program to review (1) The recipient's responsibilities under the scholarship agreement, and (2) The follow-up services that the institution will provide during the recipient's first three years of teaching.
- As required by section 204 of the Act, providing (a) scholarship recipients—both before and after graduation—with appropriate support and follow-up services, including job counseling and placement assistance, and (b) high-need LEAs with which the grantees collaborate with information about the terms and conditions of scholarships, and the availability of recipients to become teachers in their high-need schools. These support services are intended to help ensure that, upon graduation, scholarship recipients are able to secure teaching positions in these schools.

K. Applicability of Proposed Regulations to State and Partnership Program Grantees

As explained in the BACKGROUND section of this preamble, recipients of Title II, HEA, State and Partnership Program grants may conduct activities authorized under the Teacher Recruitment Program if these activities are described in their approved grant applications. Proposed § 611.42 would make the provisions governing scholarships awarded under the Teacher Recruitment Program also applicable to any scholarships awarded with funds provided under these other two Teacher Quality Enhancement Grant programs.

Goals 2000: Educate America Act

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

These proposed regulations would address the National Education Goal that the Nation's teaching force will have the content knowledge and teaching skills needed to instruct all American students for the next century.

Clarity of the Regulations

Executive Order 12866 and the President's Memorandum of June 1, 1998 on ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A ''section'' is preceded by the symbol ''§ '' and a numbered heading; for example, § 611.36 What are the consequences of a scholarship recipient's failure to meet the service obligation?)
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the **ADDRESSES** section of the preamble.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. Entities that would be affected by these regulations are IHEs and States that provide scholarship assistance under the Teacher Recruitment, State, and Partnership Programs; LEAs in which scholarship recipients teach upon graduation from IHE teacher preparation programs; and scholarship recipients. The information burden on each of these groups is minimal, and consists of reporting basic information that the IHE, LEA, or individual already has available. Individuals are not considered to be ''small entities'' under the Regulatory Flexibility Act. Hence, the final regulations would not have a significant impact on any entity because they would not impose excessive regulatory burden or require unnecessary Federal supervision. Rather, the regulations would impose minimal requirements to determine whether scholarship recipients are entitled to retain their scholarship assistance.

Paperwork Reduction Act of 1995

Proposed §§ 611.34—611.40 contain information collection requirements. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of this notice and these sections to the Office of Management and Budget (OMB) for its review.

Collection of Information: Teacher Quality Enhancement Grant Programs

Recipients of scholarships provided with any Teacher Quality Enhancement Grant program funds would first execute a scholarship agreement with IHEs that are associated with grantee States or partnerships. These agreements would provide that, unless the Department defers the service obligation, the recipient would either (1) Fulfill the service obligation or (2) Repay to the Department the scholarship with interest and costs of collection, if any. The agreements also would describe how the Department would administer the service-obligation requirement, and identify the information the Department would need for this purpose from the recipient, program grantees, and high-need LEAs.

Beyond the need for an executed scholarship agreement, these proposed regulations would impose minimal additional information burden on program grantees, scholarship recipients and the LEAs in which they will teach in order to ensure that scholarship recipients meet their service obligations.

Program grantees. At the beginning of each school term, program grantees would provide the Department with

basic identifying on each scholarship recipient. This information would include items such as name, address, telephone number, date of birth and social security number, as well as the amount and term of the scholarship. (This information is the same as in Sections A and B of the Proposed Scholarship Terms and Conditions contained in the appendix A of this notice.) After the recipient's graduation from the teacher preparation program, the grantee would notify the Department of the date of the recipient's graduation and the total amount of scholarship provided to the recipient with program funds. In addition, should a recipient withdraw from the teacher preparation program during the school year, or lose a scholarship because of poor academic performance, the grantee would promptly notify the Department of the date of the individual's withdrawal from the program or loss of scholarship assistance. The grantee also would inform the Department of the total amount of program funds that the individual had received in scholarship assistance, and would provide the Department the original of all scholarship agreements that any scholarship recipient had executed.

Scholarship recipients. The recipient would have the LEA in which he or she becomes employed provide the Department information that (a) Identifies the school in which he or she teaches; (b) States whether the recipient is teaching full- or part-time; and (c) Confirms that the school and LEA are of ''high-need''as defined by program regulations. (See the discussion immediately following in this section on ''LEAs.'') The scholarship recipient would continue to have the LEA provide this information until the Department notifies the recipient that he or she has fulfilled the service obligation. Consistent with section 204(e) of the HEA, the Department will use the information the LEA provides to determine whether the recipient needs to repay scholarship assistance and accrued interest and, where appropriate, to begin implementing debt collection procedures.

Alternatively, the scholarship recipient would either (1) Repay the scholarship, interest, and any costs of collection, (2) Request a repayment schedule, or (3) Request a deferment of the service obligation and explain why the deferment is appropriate.

LEAs. LEAs would provide the Department information to confirm that (1) The school and LEA in which the scholarship recipient teaches is ''high need,''and (2) The recipient is employed as a teacher full- or part-time (and if part-time, the percentage of full-time equivalency). The LEA would provide this data at the beginning of the school year or term in which the recipient begins teaching. At the end of the school year, the LEA would provide the Department follow-up information that confirms the individual's employment status for the prior year (or term). In subsequent years the LEA would continue to provide this information to the Department until the Department notifies the scholarship recipient that he or she has fulfilled his or her service obligation, or the recipient no longer works for the LEA, whichever comes first.

Before graduating, the IHE awarding the scholarship would provide the scholarship recipient information on what data the LEA needs to provide the Department. The Department's proposal for this LEA data in contained in Appendix B of this notice.

We estimate annual reporting and recordkeeping burden for this collection of information to average approximately 0.6 hours for each of the 5,000 anticipated scholarship recipients, approximately 17.7 hours for each of the anticipated 75 IHEs and other program grantees, and approximately 2.5 hours for each of the anticipated 375 LEAs. This annual reporting and recordkeeping burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, we estimate the total annual reporting and recordkeeping burden for this collection to be 5,408.5 hours.

If you want to comment on the information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB, room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for U.S. Department of Education. You may also send a copy of these comments to the Department representative named in the **ADDRESSES** section of this preamble.

We consider your comments on this proposed collection of information in —

- Deciding whether the proposed collection is necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the proposed collection, including the validity of our methodology and assumptions;
- Enhancing the quality, usefulness, and clarity of the information we collect; and
- Minimizing the burden on those who must respond. This includes exploring the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives the comments within 30 days of publication. This does not affect the deadline for your comments to us on the proposed regulations.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document is intended to provide early notification of our specific plans and actions for this program.

Assessment of Educational Impact

The Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to This Document

You may review this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (PDF) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of these sites. If you have questions about using the PDF, call the U.S. Government Printing Office at (202) 512–1530 or, toll free, at 1–888–293–6498.

Note: The official version of the document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: 20 U.S.C. 1021 *et seq.* and 1024(e)

List of Subjects in 34 CFR Part 611

Colleges and universities, Elementary and secondary education, Grant programs—education.

(Catalog of Federal Domestic Assistance Number 84.336: Teacher Quality Enhancement Grants Program)

Dated: October 28, 1999.

Claudio R. Prieto,

Acting Assistant Secretary for Postsecondary Education.

For the reasons stated in the preamble, the Secretary proposes to amend part 611 of Chapter VI of title 34 of the Code of Federal Regulations as follows:

PART 611—TEACHER QUALITY ENHANCEMENT GRANTS PROGRAM

1. The authority citation for part 611 is revised to read as follows:

Authority: 20 U.S.C. 1021 *et seq.* and 1024(e), unless otherwise noted.

2. A new subpart A consisting of § 611.1 is added to read as follows:

Subpart A—General Provisions

§ 611.1 What definitions apply to the Teacher Quality Enhancement Grants Program?

The following definitions apply to this part:

High-need local educational agency (LEA) means an LEA that meets one of the following definitions:

(a) An LEA with at least one school in which 50 percent or more of the enrolled students are eligible for free and reduced lunch subsidies.

(b) An LEA that has one school where—

(1) More than 34 percent of academic classroom teachers overall (across all academic subjects) do not have a major, minor, or significant course work in their main assignment field; or

(2) More than 34 percent of the main assignment faculty in two of the core-subject departments do not have a major, minor, or significant work in their main assigned field.

(c) An LEA that serves a school whose attrition rate among classroom teachers was 15 percent or more over the last three school years.

High-need school means an elementary or secondary school operated by a high-need LEA in which the school's students or teaching staff meet the elements in paragraph (a), (b), or (c) of the definition of a high-need LEA.

Main assignment field means the academic field in which teachers have the largest percentage of their classes.

Significant course work means four or more college-or graduate-level courses in the content area.

(Authority: 20 U.S.C. 1024(e))

3. A new subpart D consisting of §§ 611.34 through 611.40 is added to read as follows:

Subpart D—Teacher Recruitment Program

Sec.

Subpart D—Teacher Recruitment Program

§§ 611.30–611.32 [Reserved]

§ 611.34 Under what circumstances may an individual receive a scholarship of program funds to attend a teacher training program?

(a) *General: The service obligation.* An individual, whom a grantee finds eligible to receive a scholarship funded by the Teacher Recruitment Program to attend a teacher preparation program, may receive the scholarship only after executing a binding agreement with the institution of higher education (IHE) offering the scholarshipthat, after completing the program, the individual will either—

(1) Teach in a high-need school of a high-need LEA for a period of time equivalent to the period for which the individual receives the scholarship; or

(2) Repay, as set forth in § 611.36, the Teacher Recruitment Program funds provided as a scholarship.

(b) *Content of the scholarship agreement.* To implement the service-obligation requirement, the scholarship agreement must include terms, conditions, and other information consistent with §§ 611.35–611.39 that the Secretary determines to be necessary.

(Authority: 20 U.S.C. 1024(e))

§ 611.35 How does the Secretary calculate the period of the scholarship recipient's service obligation?

(a) *Calculation of period of scholarship assistance.* (1) The Secretary calculates the period of time for which a student received scholarship assistance on the basis of information provided by the grantee under § 611.40(b).

(2) The period for which the recipient received scholarship assistance is the period during which an individual enrolled in the teacher preparation program on a full-time basis, excluding the summer period, would have completed the same course of study.

(b) *Calculation of period needed to teach to meet the service obligation.* (1) The period of the scholarship recipient's service obligation is the period of the individual's receipt of scholarship assistance as provided in paragraph (a) of this section.

(2) The Secretary calculates the period that a scholarship recipient must teach in a high-need school of a high-need LEA in order to fulfill his or her service obligation by—

(i) Comparing the period in which the recipient received a scholarship as provided in paragraph (a) of this section with the information provided by the high-need LEA under § 611.39(a) and (b) on the period the recipient has taught in one of its high-need schools; and

(ii) Adjusting the period in which the recipient has taught in a high-need school to reflect the individual's employment, if any, as a teacher on a part-time basis relative to classroom teachers the LEA employs on a full-time basis under the LEA's standard yearly contract (excluding any summer or intersession period).

(c) The Secretary adjusts the period of a scholarship recipient's service obligation as provided in paragraph (b) of this section to reflect information the high-need LEA provides under § 611.39(a) and (b) that the scholarship recipient also has taught in a high-need school in a summer or intersession period.

(Authority: 20 U.S.C. 1024(e))

§ 611.36 What are the consequences of a scholarship recipient's failure to meet the service obligation?

(a) *Obligation to repay: General.* (1) A scholarship recipient who does not fulfill his or her service obligation must—

(i) Repay the Department the full amount of the scholarship, including the principal balance, accrued interest, and any collection costs charged under paragraphs (c) and (d) of this section; or

(ii) Be discharged of any repayment obligation as provided in § 611.38.

(2) Unless the service obligation is deferred as provided in § 611.37 or the repayment requirement is discharged, the obligation to repay the amount provided in paragraph (a)(1) of this section begins six months after the date the recipient—

(i) Completes the teacher training program without beginning to teach in a high-need school of a high-need LEA; or

(ii) Is no longer enrolled in the teacher training program.

(3) The Secretary determines whether a scholarship recipient has fulfilled the service obligation on the basis of information that the Department receives as provided in § 611.39(a) and (b).

(b) *Obligation to Repay: Partial performance of the service obligation.* (1) A scholarship recipient who teaches in a high-need school of a high-need school district for less than the period of his or her service obligation must repay—

(i) The amount of the scholarship that is proportional to the unmet portion of the service obligation;

(ii) Interest that accrues on this portion of the scholarship beginning six months after the recipient's graduation from the teacher preparation program; and

(iii) Costs of collection, if any.

(2) Unless the service obligation is deferred or the repayment requirement is discharged, the obligation to repay the amount provided in paragraph (b)(1) of this section begins six months after the date the recipient is no longer employed as a teacher in a high-need school of a high-need LEA.

(c) *Availability of payment schedule.* (1) Upon request to the Secretary, the scholarship recipient may repay the scholarship and accrued interest according to a payment schedule that the Secretary establishes.

(2) A payment schedule must permit the full amount of the scholarship and accrued interest to be repaid within ten years. The minimum monthly payment is $50 unless a larger monthly payment is needed to enable the full amount that is due to be paid within this timeframe.

(d) *Interest.* In accordance with 31 U.S.C. 3717 and 34 CFR part 30, the Secretary charges interest on the unpaid balance that the scholarship recipient owes. However, except as provided in § 611.37(d), the Secretary does not charge interest for the period of time that precedes the date on which the scholarship recipient is required to begin repayment.

(e) *Failure to meet requirements.* A scholarship recipient's failure to satisfy the requirements of §§ 611.35–611.39 in a timely manner results in the recipient being—

(1) In non-compliance with the terms of the scholarship;

(2) Liable for repayment of the scholarship and accrued interest; and

(3) Subject to collection action.

(f) *Action by reason of default.* The Secretary may take any action authorized by law to collect the amount of scholarship, accrued interest and collection costs, if any, on which a scholarship recipient obligated to repay under this section has defaulted. This action includes, but is not limited to, filing a lawsuit against the recipient, reporting the default to national credit bureaus, and requesting the Internal Revenue Service to offset the recipient's Federal income tax refund.

(Authority: 20 U.S.C. 1024(e))

§ 611.37 Under what circumstances may the Secretary defer a scholarship recipient's service requirement?

(a) Upon written request, the Secretary may defer a service obligation for a scholarship recipient who—

(1) Has not begun teaching in a high-need school of a high-need LEA as required by § 611.34(a); or

(2) Has begun teaching in a high-need school of a high-need LEA, and who requests the deferment within six months of the date he or she no longer teaches in this school.

(b) To obtain a deferment of the service obligation, the recipient must provide the Secretary satisfactory information of one or more of the following circumstances:

(1) Serious physical or mental disability that prevents or substantially impairs the scholarship recipient's employability as a teacher.

(2) The scholarship recipient's inability, despite due diligence (for reasons that may include the failure to pass a required teacher certification or licensure examination), to secure employment as a teacher in a high-need school of a high-need school LEA.

(3) Membership in the armed forces of the United States on active duty for a period not to exceed three years.

(4) Other extraordinary circumstances that the Secretary accepts.

(c) Unless the Secretary determines otherwise—

(1) A scholarship recipient must apply to renew a deferment of the service obligation on a yearly basis; and

(2) The recipient has 60 days from the end of the deferment period to begin teaching in a high-need school of a high-need LEA or become liable for repayment of the scholarship, any accrued interest, and any costs of collection.

(d)(1) As provided in § 611.36(e), during periods for which the Secretary defers a scholarship recipient's service obligation, the scholarship recipient does not have an obligation to repay the scholarship. However, interest continues to accrue on the amount of the scholarship.

(2) If the scholarship recipient fulfills his or her service obligation after the end of the deferment, the Secretary waives the obligation to repay accrued interest.

(Authority: 20 U.S.C. 1024(e))

§ 611.38 Under what circumstances does the Secretary discharge a scholarship recipient's obligation to repay for failure to meet the service obligation?

(a) The Secretary discharges the obligation of a scholarship recipient to repay the scholarship, interest, and any costs for failure to meet the service obligation based on information acceptable to the Secretary of—

(1) The recipient's death; or

(2) The total and permanent physical or mental disability of the recipient that prevents the individual from being employable as a classroom teacher.

(b) Upon receipt of acceptable documentation and approval of the discharge request, the Secretary returns to the scholarship recipient, or for a discharge based on death to the recipient's estate, those payments received after the date the eligibility requirements for discharge were met. The Secretary returns these payments whether they are received before or after the date the discharge was approved.

(Authority: 20 U.S.C. 1024(e))

§ 611.39 What are a scholarship recipient's reporting responsibilities?

(a) *Upon graduation.* Within six months of graduating from a teacher preparation program, a scholarship recipient must either—

(1) Have the LEA in which the recipient is employed as a teacher provide the Department information, which the Secretary may require, to confirm—

(i) The home address, phone number, social security number, and other identifying information about the recipient;

(ii) That he or she is teaching in a high-need school of a high-need LEA; and

(iii) Whether the individual is teaching full- or part-time and, if part-time, the full-time equivalency of this teaching compared to the LEA's full-time teachers; or

(2) Provide the Department a current home address and telephone number, a work address and telephone number, the recipient's social security number, and one of the following:

(i) The required repayment of the scholarship.

(ii) A request that the Secretary permit the recipient to repay the scholarship and accrued interest in installments as permitted by § 611.36(c).

(iii) A request that the Secretary defer the service obligation as permitted by § 611.37.

(b) *Upon the close of the LEA's academic year.* (1) At the close of the LEA's academic year, a scholarship recipient—whose LEA reports under paragraph (a)(1) of this section that he or she is teaching in a high-need school of a high-need LEA—must have the LEA provide information to the Department as the Secretary may require that confirms the recipient's actual employment status for the preceding period.

(2) In subsequent school years, the recipient must have the LEA continue to provide information to the Department on the recipient's employment as the Secretary may require, until the Department notifies the recipient that the service obligation has been fulfilled.

(3)(i) The Secretary provides a scholarship recipient with credit toward the service obligation for teaching in a high-need school of a high-need LEA during a summer or intersession period (for LEAs that operate year-round programs).

(ii) To receive this credit, the recipient must have the LEA at the end of the summer or intersession period provide information to the Department, as the Secretary may require, that confirms that the recipient has taught during this period in a high-need school.

(c) *Upon failure to graduate or withdrawal of scholarship support.* (1) Within six months of the date the scholarship recipient is no longer enrolled in the teacher training program, or within six months of the IHE's withdrawal of scholarship support for failure to maintain good academic standing, , the recipient must submit to the Department—

(i) The required repayment of the scholarship;

(ii) A request that the Secretary establish a binding schedule under which the recipient is obligated to repay the scholarship, accrued interest, and any costs of collection; or

(iii) A request that the Secretary defer the service obligation as permitted by § 611.37.

(2) Upon review of the repayment or information provided under paragraph (c)(1) of this section, the Department notifies the recipient of the status of the recipient's obligations and of any schedule under which the recipient must repay the scholarship.

(d) *Continuing responsibilities to report.* Until the Secretary determines that the individual either has satisfied his or her service obligation or has repaid the full amount of the scholarship, accrued interest, and any costs, the recipient also remains responsible for providing the Department—

(1) The information identified in this part; and

(2) A current home address and telephone number, and a current work address and work telephone number.

(Authority: 20 U.S.C. 1024(e))

§ 611.40 What are a grantee's responsibilities for helping to implement the scholarship requirements?

(a) *Before awarding a scholarship.* Before awarding scholarship assistance with funds provided under the Teacher Recruitment Program to any student attending a teacher preparation program, a grantee must—

(1) Ensure that the student understands the terms and conditions that the Secretary has determined must be included in the scholarship agreement;

(2) Have the student and the institution awarding the scholarship execute a scholarship agreement that contains these terms and conditions; and

(3) Establish policies for—

(i) The withdrawal of scholarship support for any student who does not remain in good academic standing; and

(ii) Determining when and if re-negotiation of a student's scholarship package over an extended period of time is appropriate.

(b) *Reporting requirements.* (1) Within 30 days of the beginning of the teacher preparation program's academic term or within 30 days of the execution of any scholarship agreement, whichever is later, the grantee must provide to the Department the following information:

(i) The identity of each scholarship recipient.

(ii) The amount of the scholarship provided with program funds to each recipient.

(iii) The full-time equivalency, over each academic year, of each recipient's enrollment in the teacher training program for which he or she receives scholarship assistance.

(iv) Other information as the Secretary may require.

(2) Within 30 days of a scholarship recipient's graduation or withdrawal from the teacher preparation program, the grantee must provide to the Department the following information:

(i) The date of the recipient's graduation or withdrawal.

(ii) The total amount of program funds the grantee awarded as a scholarship to the recipient.

(iii) The original of any scholarship agreement executed by the scholarship recipient and the grantee (or its partnering IHE if the grantee is not an IHE) before the recipient was awarded a scholarship with program funds.

(iv) A statement of whether the institution has withdrawn scholarship support because of the recipient's failure to maintain good academic standing.

(v) Other information as the Secretary may require.

(c) *Exit conference.* An institution providing a scholarship with funds provided under this part must conduct an exit conference with each scholarship recipient before that individual leaves the institution. During the exit conference the institution must give the recipient a copy of any scholarship agreement the recipient has executed. The institution also must review with the recipient—

(1) The terms and conditions of the scholarship. including —

(i) The recipient's service obligation;

(ii) How the recipient can confirm whether a school and LEA in which he or she would teach will satisfy the service obligation;

(iii) Information that the recipient will need to have the LEA provide to the Department to enable the Secretary to confirm that the recipient is meeting the service obligation;

(iii) How the recipient may request a deferment of the service obligation, and information that the recipient should provide the Department in any deferment request;

(v) The consequences of failing to meet the service obligation including, at a minimum, the amount of the recipient's potential indebtedness; the possible referral of the indebtedness to a collection firm, reporting it to a credit bureau, and litigation; and the availability of a monthly payment schedule;

(vi) The amount of scholarship assistance and interest charges that the recipient must repay for failing to meet the service obligation; and

(vii) The recipient's responsibility to ensure that the Department has a home address and telephone number, and a work address and telephone number until the Secretary has determined that

the recipient has fulfilled the service obligation or the recipient's debt has been paid or discharged; and

(2) The follow-up services that the institution will provide the student during his or her first three years of teaching in a high-need school of a high-need LEA.

(d) *Programmatic responsibilities.* (1) In implementing its approved Teacher Recruitment Program grant, the grantee must—

(1) Provide scholarship recipients both before and after graduation with appropriate support services, including academic assistance, job counseling, placement assistance, and teaching support that will help to ensure that—

(i) Upon graduation, scholarship recipients are able to secure teaching positions in high-need schools of high-need LEAs; and

(ii) After beginning to teach in a high-need school of a high-need LEA, former scholarship recipients have appropriate follow-up services and assistance during their first three years of teaching;

(2) Provide LEAs with which the grantees collaborate in Teacher Recruitment Program activities with information and other assistance they need to recruit highly-qualified teachers effectively; and

(3) Work with the high-need LEAs participating in its project to ensure that scholarship recipients are placed, to the extent possible, in high-need schools of those LEAs.

(Authority: 20 U.S.C. 1024(e))

Subpart E—Other Grant Conditions

4. A new § 611.42 is added to subpart E to read as follows:

§ 611.42 What rules govern scholarships funded by the State or Partnership Program for individuals attending teacher preparation programs?

The provisions in §§ 611.34–611.40 governing the receipt of scholarships awarded under the Teacher Recruitment Program also apply to any scholarships that are awarded with federal funds provided under the State or Partnership Program authorized by section 202 or 203 of the Higher Education Act.

(Authority: 20 U.S.C. 1021 *et seq.*)

Appendix A

(This appendix is provided for information purposes only, and will not be included in final regulations issued for this program.)

Teacher Quality Enhancement Grant Programs—Title II, Higher Education Act (HEA)

Proposed Scholarship Terms and Conditions

Section I: Recipient Section

Name (last, first, middle initial):
Permanent Address (street, city, State, ZIP code):
Date of Birth:
Area Code/Phone No.:
Social Security Number:

Section II: Institution Section

Part A

Name of Institution:
Address (street, city, State, ZIP code):
Institution's DUNS Number:
Name of Contact (last, first, middle initial):
Area Code/Phone No. of Institution Contact:
E-mail Address of Institution Contact:

Part B

Amount of Title II, HEA Funds Awarded as Scholarship:
Period of Scholarship:
Recipient Enrolled as Percentage of Full-Time Equivalent Student:
ED Grant Award Number:

Section III: Terms and Conditions

Applicable Law: The terms of this agreement and any scholarship assistance received with funds provided under Title II, sections 202–204, of the Higher Education Act of 1965, as amended (the ''Act'') that the recipient receives will be interpreted in accordance with Title II, section 204, of the Act and any applicable Federal regulations. Section 204 of the Act embodies the Teacher Recruitment Program, whose purpose is to address the severe shortages of qualified teachers in many school districts and schools throughout the nation.

Purpose of the Scholarship—the Recipient's Service Obligation: Section 204(e) of the Act authorizes institutions and States that receive Teacher Recruitment Program funds from the U.S. Department of Education (the Department) to use these funds to provide scholarships to qualified individuals who agree to become teachers and then work in school districts and schools that face a serious teacher shortage. Similarly, sections 202(d)(7) and 203(e)(4) of the Act authorize States and institutions that receive State or Partnership Program grants respectively to use these funds to carry out activities permitted under the Teacher Recruitment Program. Therefore, recipients of scholarships provided with federal funds under these two programs also are subject to the requirements of section 204(e) of the Act.

Consistent with section 204(e), the recipient accepts the scholarship with the understanding that it carries with it a service obligation. More specifically, in exchange for the scholarship, the recipient agrees upon graduating from the institution's teacher training program to teach in a ''high-need school'' of a ''high-need school local educational agency (hereinafter ''high-need school district'') for at least as long as the period for which the recipient receives scholarship assistance. The recipient understands that the period of time for which he or she receives scholarship assistance will be determined in comparison to full-time enrollment in the teacher preparation program (exclusive of summers). Similarly, the recipient understands that the period of time he or she must teach in a high-need school of a high-need school district will be determined in comparison to what the school district considers to be teaching on a full-time basis. Full-time basis does not include summers or optional intersession periods for those school districts that operate year-round programs.

The recipient also understands that the institution has received funds from the Department of Education to provide teacher recruitment services to the scholarship recipient and so, consistent section 204 of the Act, is responsible among other things for—

1. Providing support services, if needed, to help the recipient complete the teacher training program;

2. Working with one or more high-need school districts, in securing placement of the scholarship recipient, upon his or her graduation, into a teaching position at a high-need school in the school district; and

3. Working with the high-need school and school district in which the recipient begins to teach to provide the recipient with follow-up services during his or her first three years of teaching.

Recipient's Retention of Scholarship Assistance for Meeting the Service Obligation: The recipient does not have to repay to the Department the scholarship provided with funds under Title II of the Act if the Department determines that the recipient has fulfilled his or her service obligation. To determine that the recipient has met the service obligation, the Department must receive information to confirm that the recipient (1) Within six months of graduation from the teacher training program, has teaching in a high-need school of a high-need school district; and (2) Continues teaching in a high-need school of a high-need school district for a period of time that is equivalent to the period of time for which the recipient receives this scholarship assistance.

So that the Department may obtain the information it needs to make these determinations, the recipient agrees within six (6) months of graduation from the institution's teacher training program to have the high-need school district in which he or she is teaching provide to the Department information as the Department may require that confirms:

1. The school and school district in which the recipient is teaching are ''high-need''as defined in the ''DEFINITION OF HIGH-NEED SCHOOL DISTRICT AND HIGH-NEED SCHOOL,''below; and

2. The recipient is teaching on a full-time basis or, if teaching on a part-time basis, the amount of time the recipient is teaching as a percentage of the time spent teaching by the district's full-time teachers.

Before graduating, the institution will provide the recipient written guidance that explains the information the recipient must have the school district provide the Department, and the date or dates that this information is due.

Scholarship recipients who attend the institution on a part-time basis must teach in a high-need school of a high-need school district for a period that is comparable to the full-time equivalent period that the student receives scholarship assistance. The Department treats both the full academic year of the teacher training program, excluding summer, and the full academic year of the school district in which the recipient will teach, excluding summers and any intersession periods (for school districts that operate year-round programs), as equivalent one-year periods of time.

Example: An individual receives a scholarship for the costs of attending a teacher preparation program on a part-time basis. While the program extends for two full years of coursework and clinical experience, the scholarship recipient is enrolled part-time, and completes the program in three years. The Department would consider the period for which the individual receives a scholarship as two academic years.

Upon graduation, the individual begins teaching half time in a high-need school of a high-need school district after receiving the two full years of scholarship support. If the individual continues to teach half time, he or she would meet the program's service obligation by teaching in a high-need school of a high-need school district for the standard contractual period of four school years. This four-year period is equivalent to the period that a full-time teacher would teach for two full school years.

At the end of each school year, the recipient will have the high-need school district in which he or she teaches provide the Department with information to confirm that the recipient has taught for the preceding period in a high-need school. The Department will provide the recipient with credit towards meeting the service obligation for time that a high-need school district confirms the recipient has taught in a high-need school during a summer period (or intersession period for districts that operate year-round programs).

Until the Department notifies the recipient that he or she has met the service obligation, at the beginning and end of each subsequent academic year the recipient will continue to have the high-need school district inform the Department whether the recipient is teaching in a high-need school. The recipient will have the school district provide this information on or before October 1 and within seven days of the end of the school year, respectively.

Before graduation, the institution will provide the recipient forms that contain the information that the school districts will need to provide to the Department.

Definition of High-Need School District and High-Need School: For purposes of this agreement, a ''high-need school district'' is a school district that meets one of the following definitions:

1. An school district with at least one school in which 50 percent or more of the enrolled students are eligible for free and reduced lunch subsidies.

2. A school district that has one school where—

More than 34 percent of academic classroom teachers overall (across all academic subjects) do not have a major, minor, or significant course work in their main assignment field; or

More than 34 percent of the main assignment faculty in two of the core-subject departments do not have a major, minor, or significant work in their main assigned field. (For purposes of the definition above, ''Main assignment field'' means the academic field in which teachers have the largest percentage of their classes. ''Significant course work'' means four or more college- or graduate-level courses in the content area.)

3. A school district that serves a school whose attrition rate among classroom teachers was 15 percent or more in the last three school years.

For purposes of this Agreement, a ''high-need school'' is an elementary or secondary school that meets one of the three tests that enables a school district to be considered a ''high-need school district.''

Deferment of Service Obligation: The Department may defer the scholarship recipient's responsibility to teach in a high-need school of a high-need school district if the recipient provides satisfactory information to confirm that he or she—

1. Suffers from a serious physical or mental disability that temporarily prevents or impairs the scholarship recipient from working as a teacher;

2. Is a member of the Armed Forces of the United States on active duty;

3. Is conscientiously seeking but is unable to secure employment (for reasons that may include the failure to pass a required teacher certification or licensure examination) as a teacher in a high-need school of a high-need school district; or

4. Is affected by other extraordinary circumstances that prevent the scholarship recipient from securing such employment.

The recipient must apply to the Department for a deferment of the service obligation. The recipient must do so within six (6) months of his or her graduation (or withdrawal) from the teacher training program or, if the recipient has already begun teaching in a high-need school of a high-need school district, within six (6) months of the date he or she no longer teaches in this school. Unless the Department determines otherwise, the recipient must apply to the Department to renew a deferment on a yearly basis. Deferments for military service may not exceed three years. During the period of any deferment, the recipient agrees to provide the Department with current information (including updating information) on the recipient's home address and phone number, and work address and telephone number.

The obligation to repay the scholarship, as set forth below in ''Repayment for Failure to Meet Service Obligation,'' is not deferred until the Department determines that a deferment is appropriate.

Repayment for Failure to Meet Service Obligation: The recipient agrees to repay to the Department the full amount of the scholarship (with accrued interest and costs of collection, if any, as described below) if he or she does not—

(1) Meet the service obligation or reporting requirements identified above in ''Recipient's Retention of Scholarship Assistance for Meeting the Service Obligation;'' or

(2) Receive a deferment of this obligation as explained above in ''Deferment of Service Obligation.''

If the scholarship recipient does not teach in a high-need school of a high-need school district within six (6) months of his or her graduation from the teacher preparation program, the recipient becomes obligated to repay the scholarship six months after the date of completion of the teacher training program.

If the scholarship recipient withdraws from the teacher preparation program prior to graduating, the recipient becomes obligated to repay the scholarship six (6) months after his or her withdrawal from the program.

If upon graduation from the institution's teacher preparation program the scholarship recipient teaches in a high-need school of a high-need school district for a period that is *less than* the period of his or her service obligation, the recipient becomes responsible for repayment of the percentage of the scholarship (and interest that accrues on this portion of the scholarship) equal to the percentage of the period for which the service obligation was not fulfilled.

Example: An individual receives a scholarship in the total amount of $10,000 to attend a teacher preparation program for two academic years. The individual graduates from the program, and works in a high-need school of a high-need school district for one full school year. The individual then moves, and takes a teaching position in a school and school district that are not high-need.

The individual has fulfilled one-half of his or her service obligation, and so must repay one-half of the scholarship, plus interest that accrues on this amount beginning six months after graduation from the teacher preparation program (see ''INTEREST,'' below), and any costs of collection. This indebtedness attaches to the recipient six months after the individual is no longer employed as a teacher in the high-need school of a high-need school district.

Until the scholarship recipient either satisfies the service obligation or repays the scholarship, interest, and costs of collection, if any, the recipient agrees to provide the Department a current home address and telephone number and a work address and telephone number, as well as other needed identifying information. In addition, the recipient understands that the Department, the institution, and the high-need LEA are or will be using the recipient's social security number so that the Department can, if necessary, secure payment of these amounts from the recipient if he or she fails to meet the service obligation.

Availability of Monthly Repayment Schedule: Upon request, the Department will provide to the recipient a monthly repayment schedule. Unless, for cause, the Department establishes another repayment schedule, the schedule will require the recipient to repay the Department the full amount of the scholarship and accrued interest in minimum monthly payments of no less than $50 per month. However, the payment schedule must enable the recipient to repay all scholarship and accrued interest that is due within ten years of the date the recipient becomes responsible for repaying these amounts.

The first payment will be due 30 days after the Department notifies the recipient of the payment schedule, or at such subsequent time that the Department may identify.

Interest: In accordance with 31 U.S.C. 3717 and 34 CFR part 30, the recipient agrees to pay interest on the unpaid balance that the scholarship recipient owes for failure to meet the service obligation. Interest will begin to accrue as of the date the recipient becomes responsible for repayment of the scholarship. See ''*Repayment for Failure to Meet Service Obligation,*'' above. No interest is charged for the period of time that precedes the date on which the scholarship recipient becomes responsible for repayment. Interest accrues during any period in which the Department defers the service obligation, but is waived if the scholarship recipient completes the service obligation.

The rate of interest that would apply to repayment of this scholarship is __%.

Collection of Defaulted Repayment Obligation: The Department may take any action authorized by law to collect the amount of scholarship, accrued interest and collection costs, if any, on which a scholarship recipient obligated to repay under this section has defaulted. Actions available to the Department include, but are not limited to, filing a lawsuit against the recipient, reporting the default to national credit bureaus, and requesting the Internal Revenue Service to offset the recipient's Federal income tax refund.

Discharge of a Required Repayment: The Department discharges an obligation to repay the scholarship and interest of a scholarship recipient who has died or who demonstrates to the Department's satisfaction that, because of permanent physical or mental disability, he or she is not employable as a teacher.

Upon receipt of acceptable documentation and approval of the discharge request, the Department returns to the scholarship recipient, or for a discharge based on death, the recipient's estate, those payments received after the date the eligibility requirements for discharge were met and prior to the date the discharge was approved. The Department also returns any payments received after the date the discharge was approved.

Exit Conference: Before the recipient graduates or withdraws from the institution, the institution will provide the recipient an opportunity to review fully the terms and conditions of this scholarship agreement.

My signature certifies that I have read, understand, and agree to the terms and conditions of this scholarship agreement.

Scholarship Recipient's Signature Date:

Name of Scholarship Recipient:

Authorized Institutional Official Date:

Name of Official:

Title:

Appendix B

(This appendix is provided for information purposes only, and will not be included in final regulations issued for this program)

Teacher Quality Enhancement Grant Programs

Title II, Higher Education Act

Verification of Teaching Obligation

The individual identified below is a teacher employed by your school district. He or she received a scholarship provided under the Teacher Quality Enhancement Grant Programs to attend a teacher preparation program. As a condition of that scholarship, within six months of completing the program the individual must begin teaching in a high-need school, as that term is defined in Section II, Part C of this form. The individual must continue teaching in a high-need school for a period equivalent to the length of time during which he or she received the scholarship. The U.S. Department of Education needs the information identified in this document so that it can confirm that the individual has fulfilled this service obligation.

For Sections I and II, we ask that you furnish this information by October 1 for individuals who begin teaching at the beginning of the school year, and within seven days of receipt for individuals who begin teaching at other times. The Department needs to obtain the information only once during the school year.

For Section III, we ask that you furnish the information on the teacher's regular school-year employment in your school district (Parts A1 and A2 and Part B) within seven days of the end of the school year. If the individual teaches during the summer (or intersession period if the school district operates a year-round program) in a high-need school, we ask that you furnish the information in Part A3 within seven days of the end of the summer session. Please also include any changes in the name, address, telephone number, fax number, or E-mail address of the school district's reporting official that was previously provided in Section I.

Please feel free to use this form or any other format you prefer. Please mail this information to: U.S. Department of Education, Office of Postsecondary Education, Teacher Quality Program Office, 1990 K Street, NW, 6th Floor, Washington, DC 20202–____. If you prefer to provide this information over the Internet, please contact the Teacher Quality program office at:____. You will be sent an electronic copy of this document.

Thank you for your assistance.

Section I: Scholarship Recipient/Teacher Information

Name:
Permanent Address:
Permanent Telephone Number:
Social Security Number:
Date of Birth:

Section II: Scholarship Recipient/Teacher Information

Part A

School District:
Address:
Name of District Official Providing This Information:
Telephone Number:
Fax Number:
E-mail:

(Name of Teacher) has been employed by the school district as a teacher at (Name of School):

__ since the beginning of this school year
__ beginning on ____(date) (____weeks after the school year began).

Part B

During the current academic year, he/she will be teaching at this school ____ full-time ____ part-time.

If part-time, he/she has a teaching schedule that is ____ % of the district's full-time teachers

Part C

To retain his/her financial assistance as a scholarship, (Name of School) must be a ''high-need school'' as the term is used in the Teacher Quality Enhancement Grant Programs. Please check at least one number that applies to the school:

1. ____ 50% or more of the enrolled students are eligible for free and reduced lunch subsides.
2. ____ 34% or more of the school's academic classroom teachers do not have a major, minor, or significant course work in their main assignment field.
3. ____ 34% or more of the main assignment faculty in two of the core-subject departments do not have a major, minor or significant work in their main assigned field.
4. ____ The school has had an attrition rate among classroom teachers of 15% or more in the last three school years.

Note: *If none of these categories applies to the school in which the individual is teaching, please notify the individual immediately. He or she is at risk of becoming legally responsible for repaying of the full amount of his or her scholarship.*

Questions/Comments

I certify that the information contained in this document is correct.

Signature of School District Official:
Date:

Section III: Confirmation of School-Year/Summer/Intersession Employment

(To be completed within seven days of the end of the school year or summer/intersession period. Please submit to the U.S. Department of Education along with the previously completed Sections I and II.)

Part A

(Name of Teacher):

1. ____ continued to teach at (Name of School) for the remainder of the school year in the same full-time or part-time capacity as reported earlier this year.
2. ____ became a teacher at another school in this school district (School Name) beginning (date) and taught there in the same

full-time or part-time capacity as previously reported. This school is a high-need school because it meets the criterion in No. ____ in Section II.C of this document.

3. ____ taught this summer / intersession period at (Name of School). This school is a high-need school because it meets the criterion in No. ____ in Part II.C of this document. The individual taught at this school from (date) to (date).

Part B

If neither 1 nor 2 of Part A is true, please explain the change of the individual's employment status from what the school district previously reported in Section II. If applicable, please also provide the date on which the individual no longer was employed by the school district or worked in a high-need school.

Questions/Comments

I certify that the information contained in this document is correct.

Signature of School District Official:
Date:

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